STATE OF NEW YORK

FOURTH REPORT OF THE FACTORY INVESTIGATING COMMISSION 1915

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STATE OF NEW YORK

FOURTH REPORT

OF THE

FACTORY INVESTIGATING COMMISSION

1915

VOLUME I

TRANSMITTED TO THE LEGISLATURE FEBRUARY 15, 1915

ALBANY
J. B. LYON COMPANY, PRINTERS
1915

STATE OF NEW YORK

No. 43

IN SENATE

FEBRUARY 15, 1915

FOURTH REPORT

OF THE

New York State Factory Investigating Commission

February 15, 1915

ROBERT F. WAGNER
Chairman

ALFRED E. SMITH
Vice-Chairman

CHARLES M. HAMILTON
EDWARD D. JACKSON
CYRUS W. PHILLIPS
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LAURENCE M. D. McGUIRE

ABRAM I. ELKUS
Chief Counsel

BERNARD L. SHIENTAG
Assistant Counsel

FRANK A. TIERNEY
Secretary

CONTENTS

VOLUME I

PAGE

Report of Commission 1–75
General Summary 1–17
Creation of Commission 1
Scope of Commission's Investigation 2
Organization of Commission 2
Summary of work in 1911 2
Laws enacted in 1912 3
Continuance of Commission in 1912 4
Investigations in 1912 4
Laws passed in 1913 5
Hearing on Commission's bills 7
Continuance of Commission in 1913 7
Work in 1913 8
Reports submitted in 1913 8
Status of wage investigation in 1913 9
Laws passed in 1914 10
Advisory committees 11
Advisory committee on wages and wages legislation 11
Advisory committee on recodification of Labor Law 13
New York City committee 13
Up-State committee 15
Outline of Work in 1914 17–30
Wage investigation 17
Methods of investigation 18
Extent of general wage investigations 18
Reports of wage investigation 19
Relationship between irregularity of employment and living wage. 20
Report on cost of living 20
Wages and industrial training 21
Wage legislation in Australasia 21
Recodification of the Labor Law 22
Consolidation of departments inspecting buildings in New York City. 22
Cases involving constitutionality of laws recommended by commission. 23
Questionnaires and Letters of Inquiry 24
Public Hearings and Executive Sessions 29
Wages and Wage Legislation 33–50
Wages 34
Piece rates 35
Rates and earnings 35
Women's earnings 35

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Wages and Wage Legislation — *Continued* PAGE
Age, Experience and Personal Condition 36
Wage and experience 36
Age and wage 36
Home relations 36
Cost of Living 37
Irregularity of employment and lack of standardization in trades 38
Vocational and trade training 40
Expression of public opinion 41
Objections to wage legislation 42
Arguments in support of wage legislation 42
Conclusions and recommendations 47
Recodification of the Labor Law 51–64
Change in arrangement of the Labor Law 52
Present arrangement of the Labor Law 52
Proposed classification 54
Repeal of present articles of the Labor Law 55
Transfer of provisions to other laws 56
Consolidation of employment certificate provisions 57
Change in definition of factory 57
Change in definition of factory building 58
Change in definition of mercantile establishment 58
Labor Law made more flexible 59
Power of Industrial Board to grant modificatons 60
Industrial Board to specify materials and forms of construction 61
Smoking in factories 61
Summary power of Commissioner of Labor increased 62
Penalty provisions 62
Fire hazard in mercantile establishments 63
Summary 63
Consolidation of Departments Having Jurisdiction over Buildings in New York City 65–72
Issuance of tentative plan and bill 67
Recommendation of Commission 70
Conclusion 72
Appreciation to Abram I. Elkus 72
Dissenting Report of Laurence M. D. McGuire 76
Reply to Dissenting Report 83

APPENDIX I

Bills Recommended by Commission 91–299
Recodification of the Labor Law 93
Wage Commission and living wage for women and minors 291
Consolidation of departments inspecting buildings in New York City. 299

APPENDIX II

Briefs Submitted by Commission 301
People v. Schweinler Press — Court of Appeals — Law prohibiting night work of women in factories 303

Briefs Submitted by Commission — *Continued* PAGE
Decision of Court of Appeals in People v. Schweinler Press 359
People v. Balofsky — Appellate Division, Second Department — Law prohibiting manufacturing of children's wearing apparel in tenements 371

APPENDIX III

1. Memoranda on the relationship between low wages and the vice problems 389
Katherine B. Davis 390
Martha P. Falconer 392
Abraham Flexner 395
George J. Kneeland 397
Maude E. Miner 409
James Bronson Reynolds 412
Mary K. Simkhovitch 414
Frederick H. Whitin 416
2. Questionnarie on the Wage Problem 418
List of questions 418
List of persons submitting replies 421
Replies to questions 425–591
3. Symposium on the Minimum Wage Problem 592
I. Economists 598
Thomas S. Adams 598
Eugene E. Agger 598
William B. Bailey 600
Roy G. Blakey 601
Thomas N. Carver 602
Sidney J. Chapman 604
John Bates Clark 604
John R. Commons 605
Davis R. Dewey 605
Frank A. Fetter 606
George C. Groat 608
John H. Gray 610
M. B. Hammond 611
E. W. Kemmerer 614
Scott Nearing 620
Edward Alsworth Ross 634
John A. Ryan 635
Henry R. Seager 641
N. I. Stone 652
Frank H. Streightoff 668
F. W. Taussig 673
Frank D. Watson 675
A. F. Weber 678
II. Social Workers.
Felix Adler 681
Frederic Almy 681
Inez Milholland Boissevain 683

3. Symposium on the Minimum Wage Problem — *Continued*
II. Social Workers — *Continued* PAGE
Bailey B. Burritt (Joint statement with John A. Fitch, Homer Folks, Paul U. Kellogg, John A. Kingsbury, Samuel McCune Lindsay, Charles S. MacFarland, William H. Matthews, Frank Persons and Stephen S. Wise) 691
Frederick Courtney 693
Herbert Croly 695
Edward T. Devine 696
Seba Eldridge 698
Mary E. Gardner 700
Josephine Goldmark 701
Norman Hapgood 705
Charles R. Henderson 706
Frederic C. Howe 708
Florence Kelley 701
John A. Kingsbury 709
Bruno Lasker 711
Owen R. Lovejoy 714
George R. Lunn 716
D. J. McMahon 717
Maud Nathan 727
Harry Allen Overstreet 728
Samuel Schulman 730
John Spargo 732
Nelle Swartz 727
Walter E. Weyl 737
Gaylord S. White 738
III. Lawyers 741
Henry De Forest Baldwin 741
H. La Rue Brown 743
W. Bourke Cockran 744
Julius Henry Cohen 759
Manfred W. Ehrich 760
Raymond B. Fosdick 762
John D. Kernan 762
Jarvis W. Mason 764
Charles F. Matthewson 765
Victor Morawitz 766
Everett P. Wheeler 767
IV. Representatives of Labor 769
Edward A. Bates 769
Homer D. Call 770
Timothy Healy 770
James P. Holland 771
Emanuel Koveleski 772
James M. Lynch 773
Helen Marot 774
John Mitchell 777
Alburtis Nooney 780

3. Symposium on the Minimum Wage Problem — *Continued*
IV. Representatives of Labor— *Continued* PAGE
John T. O'Brien ... 780
Margaret Dreier Robins ... 781
Henry Streifler ... 786
V. Employers and their Representatives ... 787
James F. Adams ... 787
L. Adler Bros. & Co ... 788
Roger W. Babson ... 788
M. M. Bruere ... 792
Frank R. Chambers ... 793
Richard S. Childs ... 793
Henry Clews ... 794
James G. Cutler ... 795
Frederick L. Devereux ... 796
H. Dowie ... 797
Nathan Drew ... 798
E. F. Du Bruhl ... 799
Dunn & McCarthy ... 801
Alex Eisemann ... 802
A. Lincoln Filene ... 802
D. M. Frederiksen ... 804
F. X. Kuchler & Son ... 806
Adolph Lewisohn ... 807
Robert Luce ... 807
K. B. Mathes ... 809
New York State Retail Dry Goods Association ... 811
F. Colburn Pinkham ... 819
H. F. Searles ... 820
Percy S. Straus ... 822
Henry R. Towne ... 824
G. Vintschger, Sr ... 825
F. E. Wheeler ... 825
VI. Commissions ... 827
Great Britain.
G. S. Barnes ... 827
California.
Katherine P. Edson ... 828
Walter G. Matthewson ... 828
Massachusetts.
Robert G. Valentine ... 829
Minnesota.
William F. Houk ... 833
Oregon.
Edwin V. O'Hara ... 837
Washington.
Edward W. Olson ... 838
Wisconsin.
C. H. Crownhart ... 844

PAGE
4. Industrial Education and Wages....846
List of those submitting replies....846
William C. Ash....848
W. H. Belcher....848
Meyer Bloomfield....849
James E. Dongan....851
Joseph J. Eaton....851
A. Caswell Ellis....852
Alfred P. Fletcher....852
Frederick A. Geier....856
Lewis Gustafson....856
F. C. Henderschott....860
Ernest M. Hopkins....861
W. B. Hunter....863
Pliny A. Johnston....867
Millard B. King....867
Paul Krenzpointner....869
John A. Lapp....879
James P. Munroe....880
H. B. R. Schell....882
Albert Shiels....883
J. G. Spofford....885
Mary S. Woolman....885
5. Consolidation of Departments Inspecting Buildings in New York City. 888
List of questions....888
Questions considered at informal conference....891
Tentative plan....892
Tentative bill....894
6. List of Questions on Fire Hazard in Mercantile Establishments....918
7. Study of Hotel Laundries....921

VOLUME II

GENERAL WAGE INVESTIGATION

Scope and Character of the General Wage Investigation....1–50
Mercantile Establishments....51–174
Wages in Retail Stores....51–120
Organization and Working Conditions in Retail Stores....121–167
Mutual Aid Associations in New York City Stores....167–174
The Shirt Industry....175–230
The Paper Box Industry....231–300
Wages in the Paper Box Industry....231–270
Report on Accidents in the Paper Box Industry....271–300

PAGE
The Confectionery Industry....301–338
The Button Industry....339–359
Wages in the Millinery Trade....361–469
Wages Paid by the New York Telephone Company.... 471
Wages of Employees of Certain Public Utilities.... 482
The Relation of Irregular Employment to the Living Wage for Women.497–635

VOLUME III

Statistical Appendix.... 637

VOLUME IV

APPENDIX VI

Report on Vocational Training....1237–1460
Vocational Training in the Paper Box Industry.... 1243
Vocational Training in the Candy Industry.... 1347
Vocational Training in Department Stores.... 1363
Wage Value of Vocational Training.... 1407

APPENDIX VII

The Cost of Living in New York State....1461–1844
Cost of Living to the Single Woman.... 1474
Cost of Living to Men Living Independently.... 1613
Cost of Living for a Normal Family.... 1625
Living on Six Dollars a Week.... 1675
How the Working Girl of New York Lives.... 1695
Replies to Letters of Inquiry Concerning the Cost of Living.... 1715
Supplementary Tables 1769
A Study of Families.... 1785

APPENDIX VIII

Minimum Wage Legislation in Australasia....1846–2280
Victoria 1851
New Zealand 1957
New South Wales 2053
Western Australia 2157
Southern Australia 2168
Queensland 2187
Tasmania 2196
The Commonwealth 2203

Minimum Wage Legislation in Australasia — *Continued* PAGE
Summary and Conclusions 2225
Bibliography 2252
Statistical Table of Boards and Awards 2262
Chart of Provisions for Wage Regulation 2262
List of Cases Decided 2263

VOLUME V

TESTIMONY

Consolidation of Departments Inspecting Buildings in New York City .. 2269
Wages and Wage Legislation 2537

REPORT

OF THE

NEW YORK STATE FACTORY INVESTIGATING COMMISSION

To the Legislature of the State of New York:

The New York State Factory Investigating Commission, in pursuance of the provisions of chapter 110 of the Laws of 1914, hereby submits the following report:

Creation of the Commission

This Commission was created after the Triangle Waist Company fire occurring in New York City, March 25, 1911, in which 145 employees, chiefly women, lost their lives.

Pursuant to chapter 561 of the Laws of 1911, the following Commission was appointed:

By the President of the Senate:
Robert F. Wagner.
Charles M. Hamilton.

By the Speaker of the Assembly:
Alfred E. Smith.
Edward D. Jackson.
Cyrus W. Phillips.

By the Governor:
Simon Brentano.
Robert E. Dowling.*
Mary E. Dreier.
Samuel Gompers.

* In 1914 Mr. Robert E. Dowling resigned and Mr. Laurence M. D. McGuire was appointed in his place.

SCOPE OF THE COMMISSION'S INVESTIGATION

The Legislature authorized the Commission to inquire into the conditions under which manufacturing is carried on in cities of the first and second class of the State, to the end that remedial legislation might be enacted for the protection of the life and health of all factory workers, and for the best interests of the public generally.

The Commission was given all the powers of a legislative committee, including the power to compel the attendance of witnesses and the production of books and papers, and the right to appoint counsel, secretary, stenographer and the necessary employees to aid it in carrying out its work. The members of the Commission were to receive no compensation for their services.

ORGANIZATION OF THE COMMISSION

The Commission was organized in August, 1911. Senator Robert F. Wagner was elected chairman, and Assemblyman Alfred E. Smith, vice-chairman. The Commission appointed Abram I. Elkus, chief counsel, and Bernard L. Shientag, assistant counsel. Frank A. Tierney was selected as secretary.

SUMMARY OF WORK IN 1911

The Commission retained Dr. George M. Price as its expert in general charge of the work of inspection of manufacturing establishments, and of the problem of sanitation therein. Mr. H. F. J. Porter, a mechanical engineer, was retained as advisory expert on the fire problem. Under their supervision a trained corps of inspectors was put in the field.

The Commission held fourteen public hearings in the cities of the first and second class of the State: 222 witnesses were examined, and 3,489 pages of testimony taken. In addition numerous executive sessions and conferences were held.

The following investigations were conducted:

1. General sanitary investigation of factories in cities of the first and second class.
2. Fire hazard in factories.
3. Women's trades.

4. Conditions in bakeries and physical examination of bakers employed therein.
5. Lead poisoning and arsenical poisoning.
6. An industrial survey of a selected area in New York City.
7. Preliminary investigation of child labor in tenement houses.

Special reports on each of the foregoing are fully set forth in the Commission's preliminary report in three volumes, which was published March 1, 1912, to which reference is here made. This report, together with a series of bills embodying the preliminary recommendations of the Commission, was submitted to the Legislature on March 1, 1912.

We shall not now go into the details of this preliminary report, except to call attention to the fact that one investigation alone, the general sanitary investigation, covered twenty industries and 1,836 factories, in which 63,374 men, women and children were employed. The bakery investigation covered 500 bakeries and included a careful physical examination of 800 bakers therein employed. The industrial survey in New York City covered 323 establishments, in which 10,698 men, women and children were employed.

LAWS ENACTED AS A RESULT OF THE COMMISSION'S FIRST YEAR'S WORK

The following bills recommended by the Commission in its preliminary report were passed by the Legislature during the session of 1912, and became laws:

1. Registration of factories.
2. Physical examination of children before employment certificate is issued.
3. Fire drills.
4. Automatic sprinklers.
5. Fire prevention; removal of rubbish; fire-proof receptacles for waste material; protection of gas jets; prohibition of smoking in factories.
6. Prohibition of the eating of lunch in rooms where poisonous substances are prepared or generated in the process of manufac-

ture; adequate hot and cold washing facilities for such establishments.

7. Employment prohibited of women within four weeks after child-birth.

8. Summary power of Commissioner of Labor over unclean and unsanitary factories.

CONTINUANCE OF THE COMMISSION IN 1912

On March 6, 1912, chapter 21 of the Laws of 1912 was enacted continuing the time within which the Commission might complete its investigations to the 15th day of January, 1913. The act extended the jurisdiction of the Commission to cities throughout the State, and also authorized the Commission to investigate general conditions in mercantile establishments. The Commission thereupon continued its investigations with the organization previously referred to, except that James P. Whiskeman, C. E., was retained as advisory expert on the fire problem.

Numerous civic organizations, which for many years had urged the appointment of a special commission to investigate the important subject of manufacturing in tenements, requested this Commission to investigate that problem, along with the other work that it had undertaken.

INVESTIGATIONS IN 1912

In 1912 and 1913 the Commission conducted the following investigations:

1. General sanitary investigation continued throughout the State.
2. Fire hazard investigation continued.
3. Manufacturing in tenements.
4. Conditions in the canneries.
5. Night work of women in factories.
6. The tobacco industry.
7. The printing industry.
8. Investigation of conditions in mercantile establishments.

9. Investigation of dangerous trades, covering the following:
   a. The chemical industry generally.
   b. Wood alcohol.
   c. Commercial acids.
   d. Lead poisoning and arsenical poisoning.
   e. Six miscellaneous investigations on occupational diseases and accidents in the dangerous trades.

Detailed reports of all these investigations are fully set forth in the second report of the Commission, contained in four printed volumes, which was submitted to the Legislature in February, 1913.

SUMMARY OF COMMISSION'S WORK IN 1912

In 1912 and 1913 the Commission held 37 public hearings in different cities of the State, over 250 witnesses were examined, and 3,557 pages of testimony taken. In addition, numerous executive sessions were held, at which employees of different industries attended and testified.

The general sanitary investigation of 1912 included 45 cities of the State, and covered 1,338 industrial establishments, in which 125,961 wage-earners were employed. All told, the investigations conducted by the Commission during this period covered several hundred thousand men, women and children working in the different industries of the State. The canneries in the State were inspected by the Commission itself or its agents. Many factories were personally investigated by the Commission, and hearings held and testimony taken right in the factories.

LAWS PASSED AS A RESULT OF THE COMMISSION'S SECOND YEAR'S WORK

With its second report the Commission submitted a comprehensive series of bills for the improvement of working conditions and for the complete reorganization of the Department of Labor, which practically amounted to a new Labor Code for the State of New York. The following bills recommended by the Commis-

sion in its second report were enacted into law by the Legislature during the session of 1913:

1. Reorganization of Labor Department; Industrial Board.
2. Penalties for violation of Labor Law and Industrial Code.
3. Fire-proof receptacles; gas jets; smoking.
4. Fire alarm signal system and fire drills.
5. Fire escapes and exits; limitation of number of occupants; construction of future factory buildings.
6. Amendment to Greater New York charter with reference to the Fire Prevention Law.
7. Prohibition of employment of children under fourteen, in cannery sheds or tenement houses; definition of factory building; definition of tenement house.
8. Manufacturing in tenements.
9. Hours of labor of women in canneries.
10. Housing conditions in labor camps maintained in connection with a factory.
11. Physical examination of children employed in factories.
12. Amendment to Child Labor Law; physical examination before issuance of employment certificate; school record; supervision over issuance of employment certificate.
13. Amendment to Compulsory Education Law; school record.
14. Night work of women in factories.
15. Seats for women in factories.
16. Bakeries.
17. Cleanliness of workrooms.
18. Cleanliness of factory buildings.
19. Ventilation; general; special.
20. Washing facilities; dressing rooms; water closets.
21. Accident prevention; lighting of factories and workrooms.
22. Elevators.
23. Dangerous trades.
24. Foundries.
25. Employment of children in dangerous occupations; employment of women in core-rooms.

The enactment of these laws marked a new era in labor legislation in the State of New York. It placed the State of New York in the lead in legislation for the protection of wage earners.

For the details of these statutes and the conditions that led to their recommendation by the Commission we refer to the second report of the Commission submitted to the Legislature, February, 1913.

HEARING ON COMMISSION'S BILLS BEFORE LEGISLATIVE COMMITTEES

A hearing on the bills recommended by the Commission was held before the joint Committees of Labor and Industry of the Senate and Assembly, in the Assembly Chamber, on February 19, 1913. At this hearing several hundred representatives of employers, labor unions and social and civic organizations appeared. The bills recommended by the Commission were commended and approved by practically everyone present for their fairness and effectiveness. The minutes of that hearing are referred to and made part of this report.*

At this hearing also many representatives of social and civic organizations called attention to the necessity for a comprehensive and complete investigation of wages paid in the different industries of the State, particularly those in which large numbers of women and children were employed. They urged that instead of the creation of a new Commission for that purpose, the present Commission be continued and empowered to conduct this investigation. In response to that demand chapter 137 of the Laws of 1913 was enacted.

CONTINUANCE OF COMMISSION IN 1913

This act continued the Commission in office until the 15th day of February, 1914, and authorized it to inquire into the rates of wages paid in the different industries of the State, and to report on the advisability of establishing minimum rates of wages. The Commission was also required to continue the in-

* See Volume IV of the Commission's Second report, page 2225.

vestigation into conditions in mercantile establishments and, if advisable, to prepare and present to the Legislature a recodification of the Labor Law.

WORK OF COMMISSION IN 1913

In 1913, the following matters were taken up by the Commission:

1. *Wage investigation.*— This was conducted under the direction of Howard B. Woolston, Ph.D., and Albert H. N. Baron, and a force of investigators and inspectors. The investigation covered wages paid to men, women and children in four principal industries in New York City — paper box, candy manufacturing, department stores and mercantile establishments, and shirts.

2. *Fire Hazard in Mercantile Establishments.*— This investigation covered department stores and other mercantile establishments in cities of the first and second class in the State, and was conducted by the Commission with the assistance of Miss Frances Perkins, Secretary of the New York Committee on Safety and a trained force of inspectors.

3. *Recodification of the Labor Law.*— Pursuant to the act continuing the Commission in 1913, there was prepared a revision of the Labor Law. This was limited in the main to matters of form and arrangement, the substance of the law not being changed.

REPORTS SUBMITTED TO THE LEGISLATURE IN 1913

The following reports were submitted to the Legislature:

1. Report on Wages and Working Conditions in the Confectionery Industry in New York City, by the Director of Investigation.

2. Report on Wages and Working Conditions in the Paper Box Industry in New York City, by the Director of Investigation.

3. Report on Wage Legislation, by Irene Osgood Andrews, Assistant Secretary of the American Association for Labor Legislation. This report, which was prepared for the Commission, made a detailed analysis of all the laws regulating wages in this and in foreign countries and described the operation and method of procedure under those laws.

4. Minimum Wage Bibliography, by C. C. Williamson, Chief of the Division of Economics and Sociology of the New York Public Library.

5. Recodification of the Labor Law.— Prepared with the assistance of the Legislative Bill Drafting Bureau of Columbia University.

6. Report on Fire Hazard in Mercantile Establishments, by Frances Perkins, Executive Secretary of the New York Committee on Safety.

7. Report on the Binghamton Fire, by James P. Whiskeman, C. E., Advisory Expert to the Commission.

STATUS OF THE WAGE INVESTIGATION WHEN THE THIRD REPORT WAS SUBMITTED

With the third report to the Legislature, there were presented the preliminary reports of the Director of Investigation on wages studied in two industries in New York City — the confectionery and paper box industries.

The huge mass of statistics that had been gathered in department stores and other mercantile establishments and in the shirt industry, were in process of tabulation. The Commission did not deem it wise, in the unfinished state of the work, to discuss in detail the results that had been obtained. It submitted, however, tables and statistics showing rates and earnings of men, women and children, in the candy and paper box industries in New York City, and made the following recommendation (page 42 of the third report):

> "Facilities should be afforded for completing the tabulation of the statistics that have been gathered and for continuing the investigation of the industries named in the different cities of the State. There should also be a more extensive study of the various phases of the wage problem, such as: unemployment; industrial education; vocational guidance; efficiency of the workers; cost of living and family budgets; relation between low wages and vice, and other kindred subjects."

Pursuant to this recommendation of the Commission, the Legislature passed Chapter 110 of the Laws of 1914 which continued

the Commission in existence until the 15th day of February, 1915, and authorized it to complete its investigations of the wage problem and submit a report thereon to the Legislature.

LAWS PASSED AS A RESULT OF THE COMMISSION'S THIRD YEAR'S WORK

The following laws, recommended by the Commission in its third report, were passed by the Legislature in 1914 and have become laws:

1. Sanitation in mercantile establishments. This covered provisions for seats for female employees; cleanliness of rooms; cleanliness of buildings; size of rooms; ventilation; drinking water; wash rooms and dressing rooms; and water closets.

2. Hours of labor of women in mercantile establishments limited to fifty-four hours a week in the entire State.

3. Hours of labor of children between fourteen and sixteen in mercantile establishments reduced from fifty-four to forty-eight hours a week and their employment prohibited for more than eight hours a day or after 6 o'clock in the evening of any day.

The recodification of the Labor Law, which had been introduced in the Legislature on the recommendation of the Commission, was not pressed for passage. Inasmuch as the Commission was to be continued for the purpose of completing its wage investigations, it was felt that it would be advisable to have the recodification of the Labor Law also go over for another year, so that manufacturers, real estate owners, labor organizations and others interested might have further opportunity to study the proposed revision and make any suggestions and recommendations on the subject they found necessary or advisable.

We have outlined very briefly the work of the Commission in 1913. For the details of the investigations conducted by it and the recommendations made to the Legislature, we refer to the third report of the Commission, submitted to the Legislature on February 14, 1914.

WORK OF THE COMMISSION IN 1914

The Commission continued with the same organization as in 1913 except that Mr. Robert E. Dowling resigned because of

pressure of work as chairman of the Workmen's Compensation Commission and Mr. Laurence M. D. McGuire was appointed by Governor Glynn in his place.

The work of the Commission in 1914 will be considered under four main heads:

1. Investigation of wages and wage legislation.
2. Recodification of the Labor Law.
3. Consolidation of departments making inspections of buildings in New York City.
4. Participation in cases involving the constitutionality of laws heretofore recommended by the Commission.

ADVISORY COMMITTEES

The following advisory committees were appointed by the Commission to assist in its work:

1. Advisory committee on wages and wage legislation.
2. Advisory committee on the recodification of the Labor Law. (New York City.)
3. Advisory committee on the recodification of the Labor Law. (Upstate.)

(1) ADVISORY COMMITTEE ON WAGES AND WAGE LEGISLATION

The committee which rendered such valuable service last year was continued by the Commission and assisted us materially with their views and suggestions with reference to the conduct of the investigations, the preparation of the various reports, and the conclusions and recommendations of the Commission. The following is a list of the members of this committee.

Walter F. Wilcox, *Chairman*, Cornell University, Ithaca, N. Y.

Irving Fisher, *Vice-Chairman*, Yale University, New Haven, Conn.

John B. Andrews, Secretary, American Association for Labor Legislation.

Gertrude Beeks, National Civic Federation.

Eugene S. Benjamin, Retired Merchant, New York City.

E. W. Bloomingdale, Counsel, New York Retail Dry Goods Association.

Peter J. Brady, Allied Printing Trades Council.

Robert E. Chaddock, Professor of Statistics, Columbia University.

Katharine B. Davis, Commissioner of Corrections, New York City.

Edward T. Devine, Director, School of Philanthropy, New York City.

Henry W. Farnam, Yale University, New Haven, Conn.

John A. Fitch, "The Survey."

Lee K. Frankel, Vice-President, Metropolitan Life Insurance Co.

Franklin H. Giddings, Professor of Sociology, Columbia University.

Pauline Goldmark, Member, Industrial Board, Department of Labor.

Mrs. J. Borden Harriman, member, Federal Industrial Relations Commission.

Daniel Harris, President, New York State Federation of Labor.

Leonard W. Hatch, Chief Statistician, State Department of Labor.

Sara Straus Hess, New York City.

Frederick W. Hoffman, Chief Statistician, Prudential Insurance Co.

Jeremiah W. Jenks, Professor of Politics, New York University.

Paul U. Kellogg, Editor of "The Survey."

John A. Kingsbury, Director, New York Association for Improving Condition of the Poor.

Samuel McCune Lindsay, Professor of Social Legislation, Columbia University.

George W. Loft, Candy Manufacturer, New York City.

Royal Meeker, Commissioner of Labor Statistics, Washington, D. C.

Charles P. Neil, former United States Commissioner of Labor.

Edward D. Page, Merchant and Banker, New York City.

Frances Perkins, Executive Secretary, Committee on Safety, New York City.

William C. Rogers, Second Deputy Commissioner, State Department of Labor.

S. G. Rosenbaum, President, National Cloak and Suit Company.

Henry R. Seager, Professor of Economics, Columbia University.

Percy S. Straus, President, Retail Dry Goods Association.

Frank Tucker, Charities Organization Society.

Lillian D. Wald, Head Worker, Nurses' Settlement.

William R. Willcox, National Civic Federation.

John Williams, Secretary, Industrial Board, Department of Labor.

ADVISORY COMMITTEES ON RECODIFICATION OF THE LABOR LAW

The Commission desired to obtain the views and suggestions of all parties in interest from all sections of the State with reference to the revised recodification of the labor law, Inasmuch as it was stated before the Commission on numerous occasions that conditions in cities up-state differed materially from those in New York City, it was deemed advisable to appoint two committees for this purpose, one made up of representatives of New York City, and the other of representatives of different cities up-state. With this end in view, the following committees were appointed:

(2) NEW YORK CITY ADVISORY COMMITTEE

Robert Adamson, Fire Commissioner.

Charles B. Alexander, Lawyer, Regent of the University of the State of New York.

George W. Alger, Lawyer; member New York Child Labor Committee.

E. W. Bloomingdale, Counsel, New York Retail Dry Goods Association.

Peter J. Brady, Secretary, Allied Printing Trades Council.

Julius Henry Cohen, Lawyer; Counsel, Cloak and Suit Manufacturers Association.

Richard J. Cullen, Member of Industrial Board, Department of Labor.

Robert C. Cumming, Lawyer, Legislative Bill Drafting Commissioner.

Burt L. Fenner, Architect; Member of firm, McKim, Mead & White.

H. W. Forster, Engineer, Independence Inspection Bureau, Philadelphia.

Julius Franke, Architect; member of firm, Maynicke & Franke.

Pauline Goldmark, member, Industrial Board, Department of Labor.

William Guerin, Fire Hazard Expert; former Chief of Bureau of Fire Prevention.

Joseph O. Hammitt, Chief of Bureau of Fire Prevention.

Daniel Harris, President, New York State Federation of Labor.

Mrs. Florence Kelley, Secretary, National Consumers' League.

Walter Lindner, Solicitor, Title Guarantee and Trust Company.

Samuel McCune Lindsay, Professor of Social Legislation, Columbia University; President, New York Academy of Political Science.

James M. Lynch, Commissioner of Labor, New York State.

William McCarroll, former Public Service Commissioner; Representative of the New York Chamber of Commerce.

Cryus C. Miller, Chairman, Advisory Council of Real Estate Interests; former President of the Borough of Bronx.

Rudolph P. Miller, Superintendent of Buildings, Borough of Manhattan.

Charles F. Noyes, Real Estate.

Thomas I. Parkinson, Lawyer; Director, Legislative Bill Drafting Bureau, Columbia University.

Frances Perkins, Executive Secretary, Committee on Safety.

Frank L. Polk, Corporation Counsel.

Andrew J. Post, Contractor; member of firm, Post & McCord; Representative of Merchants' Association.

Allan Robinson, President, Allied Real Estate Interests.

F. J. T. Stewart, Superintendent, Board of Fire Underwriters.

Alfred J. Talley, Lawyer; Counsel for the New York State Candy Manufacturers' Association.

F. S. Tomlin, Central Labor Union of Brooklyn.

Lawrence Veiller, Secretary, Tenement House Committee; former Deputy Tenement House Commissioner.

L. Victor Weil, Real Estate.

James P. Whiskeman, Mechanical Engineer.

John Williams, Secretary, Industrial Board; former Labor Commissioner.

(3) UP-STATE ADVISORY COMMITTEE

Thomas C. Ahearn, State Fire Marshal, Albany, N. Y.

E. J. Barcalo, Barcalo Manufacturing Co., Buffalo, N. Y., President Associated Industries.

E. A. Bates, Secretary-Treasurer New York State Federation of Labor, Utica, N. Y.

Emma B. Beard, President, New York State Consumers' League, Fayetteville, N. Y.

J. T. Carey, Albany, N. Y.

C. A. Chase, Syracuse Chilled Plow Co., Syracuse, N. Y.

John C. Clark, Buffalo, N. Y.

H. W. Cook, Vice-President, A. E. Nettleton Co., Syracuse, N. Y.

John J. Corcoran, Troy, N. Y.

Richard H. Curran, Cor. Rep., Iron Moulders' Union No. 11, Rochester, N. Y.

G. A. Farrall, Vice-President and General Manager, Johnston Harvester Co., Batavia, N. Y.

T. Harvey Ferris, Utica, N. Y.

Thomas D. Fitzgerald, Workmen's Compensation Commission, Albany, N. Y.

Dr. Francis E. Fronczak, Health Commissioner, Buffalo, N. Y.

Frank W. Gallagher, President U. T. & A. A., Oswego, N. Y.

Dr. George W. Goler, Health Officer, Rochester, N. Y.

Nathan Hatch, President, Fuld & Hatch Knitting Co., Albany, N. Y.

Stuart A. Hayward, Secretary, Central Labor Council, Buffalo, N. Y.

J. C. Heckman, Superintendent, Larkin Company, Buffalo, N. Y.

Edward L. Hengerer, Wm. Hengerer Company, Buffalo, N. Y.

R. C. Hudson, J. N. Adam & Co., Buffalo, N. Y.

Emanuel Koveleski, Rochester, N. Y.

Edward W. Loth, Troy, N. Y.

James M. Lynch, State Labor Commissioner, Albany, N. Y.

Charles K. Mallory, Engineer, The Solvay Process Co., Syracuse, N. Y.

John E. McLoughlin, Mohawk Valley Cap Factory, Utica, N. Y.

Adelbert Moot, Lawyer, State Regent, Buffalo, N. Y.

John J. O'Brien, Carpenters' District Council, Syracuse, N. Y.

John C. Parker, Rochester Railway and Light Company, Rochester, N. Y.

Alex. Rosenthal, Utica Trades Assembly, Utica, N. Y.

George W. Smith, Lackawanna Steel Company, Buffalo, N. Y.

Norman G. Sprague, Secretary-Treasurer, Syracuse Typographical Union No. 55, Syracuse, N. Y.

John S. Strachan, New York State Association, Schenectady, N. Y.

Henry Streifler, Buffalo, N. Y.

Neile F. Towner, Albany, N. Y.

Roland B. Woodward, Rochester Chamber of Commerce, Rochester, N. Y.

C. L. York, General Electric Company, Schenectady, N. Y.

There were several meetings of the advisory committees in New York City, at which the revised recodification of the Labor Law was taken up section by section and discussed by those present. Suggestions were received in writing from many of the members of the advisory committees who were unable to attend the meetings, and as a result, the recodification of the Labor Law that is presented herewith to the Legislature, reflects the views

and sentiments of the parties most directly concerned with its operation.

The Commission desires to express its appreciation of the valuable services rendered by the members of all of these advisory committees, who willingly gave their time and experience without any compensation, often at a great sacrifice. The service they rendered to the people of the State is one which merits public recognition.

WAGE INVESTIGATION

We have set forth earlier in this report the status of the wage investigation at the time the Commission submitted its third report to the Legislature in February, 1914. Up to that time, the investigation of wages had been confined to New York City and only the statistics for the paper box and confectionery industries had been tabulated.

When the Commission was continued, Dr. Woolston and Mr. Baron were again retained to direct the investigation. A statistical and clerical force and a staff of investigators were appointed to assist them in this work. The statistics that had been gathered for mercantile establishments and the shirt industry in New York City were tabulated. The investigation of wages in the four principal industries studied — mercantile establishments, paper box manufacturing, candy manufacturing and shirts — was extended to cover the entire State. The up-State investigation included among others the following localities:

Albany,	Hudson,	Niagara Falls,
Batavia,	Kingston,	Oswego,
Binghamton,	Lockport,	Rochester,
Buffalo,	Mechanicville,	Schenectady,
Cohoes,	Middletown,	Syracuse,
Fulton,	Newark,	Troy,
Glens Falls,	Newburgh,	Utica.

An investigation of wages and living conditions of workers in the button industry in New York City, was conducted for the Commission by Mr. Roswell Skeel, Jr.

The investigation of wages in the millinery industry made for the Commission under the direction of Miss Mary Van Kleeck of the Committee on Women's Work of the Russell Sage Foundation, which was referred to in the last report of the Commission was completed, and the results are presented as a part of this report.

METHODS OF INVESTIGATION

The method employed in the wage investigation was to copy from the payroll, for the current week, the receipts of every person in the establishment, noting rate, time worked, additions and deductions, and earnings. In several thousand cases it was possible to obtain such data for an entire year. The number of employees and the total wages of the week were also taken.

The second line of inquiry consisted in obtaining from each employee a card giving his or her age, nativity, conjugal condition, particular work done, length of time employed and whether or not the worker lived at home. This was followed up in over two thousand cases by personal interviews with the workers, by which it was sought to ascertain in detail the past industrial experience and present working conditions of the worker, as well as his or her schooling and standard of living.

The last branch of the investigation consisted of an interview with the employers or responsible managers. This dealt with the general conditions and tendency of the trade, such as hours, seasons and changes in working force. Methods of securing and promoting help, wage payments, fines and commissions, pensions, welfare work and general efficiency were discussed. In some cases the firm's books were thrown open to an accountant for the purpose of analyzing relative costs and revenues.

EXTENT OF GENERAL WAGE INVESTIGATIONS

The following table shows the number of employees in the industries studied by the Commission throughout the State for whom individual wage statistics and personal data were obtained by the Commission:

	Number of employees
Mercantile establishments	69,999
Shirt factories	13,056
Paper box factories	11,760
Confectionery factories	9,767
Button factories	916
Millinery shops	3,983
Total	109,481

Wherever available the wage statistics for industrial workers for as much as an entire year were obtained, so as to ascertain so far as practicable the actual annual earnings of the workers.

This does not cover the workers interviewed by Dr. Streightoff and his investigators in connection with the cost of living investigation, which will be referred to hereafter.

REPORTS OF WAGE INVESTIGATION *

I. Mercantile Establishments.
   1. Wages in retail stores.
   2. Organization of working conditions, by Albert H. N. Baron.
   3. Mutual Aid Associations, by The New York State Insurance Department.

II. The Shirt Industry.

III. The Paper Box Industry.
   1. Wages in paper box factories.
   2. Accidents in paper box factories, by Marie S. Orenstein, M.A., Factory Inspector of the State Department of Labor.

IV. The Confectionery Industry.

V. Button Factories, by Roswell Skeel, Jr., New York City.

VI. The Millinery Trade, by Mary Van Kleeck, Secretary of the Committee on Women's Work, Russell Sage Foundation.

* Except where otherwise indicated the reports were prepared by the Director of Investigation.

VII. Miscellaneous Wage Statistics.

1. Wages of telephone operators, submitted by the New York Telephone Company.
2. Wages in public utilities, submitted by the Public Service Commission, Second District.

The foregoing reports are set forth in Appendix IV, Volume II of this report.

VIII. Statistical tables, a series of 365 tables supplementing the wage report and presenting for convenient reference, statistics showing in detail the distribution by locality and division of the principal industries investigated. These tables are set forth in Appendix V, Volume III of this report.

RELATIONSHIP BETWEEN THE IRREGULARITY OF EMPLOYMENT AND A LIVING WAGE FOR WOMEN

The general wage investigation showed great discrepancies between wage rates and actual earnings, as well as large seasonal fluctuations in industry. So that further light might be thrown on this important problem a special study was made for the Commission by Irene Osgood Andrews, Assistant Secretary of the American Association for Labor Legislation, whose report is presented herewith in Appendix IV (Volume II).

REPORT ON COST OF LIVING IN NEW YORK STATE

The investigation of the cost of living in New York State was made for the Commission under the direction of Frank H. Streightoff, Ph.D., Professor of Economics in DePauw University, and author of "The Standard of Living of Working People in the United States." A corps of investigators was assigned to assist in this investigation which extended over the entire State. The report of Dr. Streightoff is submitted herewith in Appendix VII (Volume IV of the report). It is an analysis of the budget of workers, the cost of living, and living conditions of men, women and children, employed in industries covered in the general wage investigation. The facts were ascertained chiefly by personal interviews with the workers. The report covers the cost

of living of wage earning women, working men and of the average working family. Two special studies on living conditions of the workers were made for the Commission and are presented with Dr. Streightoff's report.

1. How the Working Girl Lives in New York City, by Marie S. Orenstein.

2. Living on Six Dollars a Week, by Esther Packard.

These reports describe concrete cases, and are the result of personal interviews and investigations.

WAGES AND INDUSTRIAL TRAINING

In the course of its investigations statements were repeatedly made to the Commission, for the most part by employers, that inefficiency and lack of training of workers were mainly responsible for low wages. The Commission therefore undertook an investigation with the view of ascertaining the possibilities of vocational training and its relation to wages in the industries covered in the general wage investigation. Through the courtesy of Dr. John H. Finley, President of the University of the State of New York and Commissioner of Education, Mr. L. A. Wilson of the Division of Vocational Training of the State Department of Education, was assigned to direct the investigation. The expense of the investigation was borne by the Commission; it also paid the salaries of the agents appointed to assist in the work. Mr. Wilson's report is submitted in Appendix VI (Volume IV of this report). It consists of the following divisions:

1. The possibility of vocational training in department stores.

2. The possibility of vocational training in the paper box industry.

3. The possibility of vocational training in the confectionery industry.

4. The relationship between wages and industrial education.

THE AUSTRALASIAN SYSTEMS OF WAGE REGULATION

In its endeavor to ascertain the practical workings of wage regulation by the State, the Commission found it advisable to have a special study made of the systems of wage regulation in the countries of Australasia, because such regulation had been in

operation there for a longer time than anywhere else. Through the courtesy of Dr. Samuel McCune Lindsay, Professor of Social Legislation of Columbia University, a report on this subject was prepared for the Commission by Mr. Paul Collier, of the School of Political Science of Columbia University. The Commission takes this opportunity to express its appreciation of the service rendered by Mr. Collier, without compensation. His report which is presented in Appendix VIII (Volume IV of the report), and which makes a valuable contribution to the work of the Commission, is an exhaustive study of the different systems of wage regulation in Victoria, New Zealand and other countries of Australasia; the methods and procedure by which the different laws are administered, and the effects on industry and working conditions ascribed to them.

II. RECODIFICATION OF THE LABOR LAW

The Commission submits herewith in Appendix I, a bill recodifying the Labor Law. This bill was prepared after public hearings held all over the State and in consultation with the advisory committees before mentioned. The details of this recodification will be taken up later in the report.

III. CONSOLIDATION OF DEPARTMENTS HAVING JURISDICTION OVER BUILDINGS IN NEW YORK CITY

Complaints were made to the Commission that there was a duplication of inspection by different city and State departments having jurisdiction of buildings in New York City. The Commission investigated this subject with a view to determining whether the functions of these departments, or some of them, should be consolidated. The Commission prepared a tentative plan and list of questions on the subject, which were widely distributed. Briefs were received from different parties in interest and later the Commission drafted a tentative bill for the creation of a Department of Buildings in New York City which formed the basis of several public hearings. The work of the Commission on this subject and its recommendations will be dealt with at length later in the report.

IV. PARTICIPATION BY COMMISSION IN CASES INVOLVING THE CONSTITUTIONALITY OF ITS LAWS

During the past year the constitutionality of two laws recommended by the Commission was challenged and came before the courts for determination. These are the laws prohibiting night work of women in factories and prohibiting the manufacture of infants and children's wearing apparel in a living apartment of a tenement house.

As stated in our report of last year, we cooperated with the district-attorney of New York county in the preparation of a case to test the constitutionality of the law prohibiting the night work of women in factories (section 93-b of the Labor Law). A case was instituted against Charles Schweinler Press, the owner of a factory, engaged in the business of printing and binding, for having unlawfully employed a woman to work from 10:24 P. M. until four o'clock on the morning of the following day. The Court of Special Sessions convicted the defendant for a violation of the law but granted a motion in arrest of judgment. An appeal was taken by the People to the Appellate Division, which by a divided court reversed the order in arrest of judgment and sustained the constitutionality of the law. The dissent was based solely on the decision of the Court of Appeals in the case of People v. Williams, 189 N. Y. 131, decided in 1907, which declared unconstitutional a somewhat similar statute prohibiting the night work of women in factories. Mr. Justice Ingraham who wrote the prevailing opinion in the case of People v. Schweinler Press in the Appellate Division said, in referring to the investigation of this Commission upon which the law is based:

> "That investigation seems to have been quite thoroughly conducted and resulted in a report to the Legislature which, among other remedial legislation, recommended the enactment of the statute now under consideration. The report of that Commission is startling both in regard to effect on the physical well-being of the night workers and the moral effect upon the women who are employed in factories at night".

Mr. Justice Hotchkiss said:

> "The act under consideration was the result of a report to the Legislature by a Factory Investigating Commission, by which the original act was proposed. No one who has read that report can for a moment doubt the propriety of the act having regard for the conditions in this State, disclosed by the report."

An appeal was taken by the defendant to the Court of Appeals where the case is now pending. The Commission obtained leave of the Court to file a brief as *amicus curiæ*. Such a brief was prepared and duly filed, and a copy is submitted herewith in Appendix II.*

The other law recommended by the Commission which came before the courts for determination was the law prohibiting the manufacture of infants and children's wearing apparel in a living apartment in a tenement house. A case was instituted in Brooklyn against a manufacturer, Jacob Balofsky, for violation of this law. He was convicted by the Court of Special Sessions and appealed to the Appellate Division. The Commission applied to the Court for leave to submit a brief as *amicus curiæ*, which application was granted. The brief was duly submitted and a copy of it is set forth in Appendix II. The Appellate Division, in a decision rendered February 5, 1915, unanimously affirmed the judgment of conviction and sustained the constitutionality of the law.

ISSUANCE OF QUESTIONAIRES AND LETTERS OF INQUIRY

The Commission from time to time during the past year issued a series of questionaires and letters of inquiry, relating to different phases of the principal subjects under consideration in order that it might receive views and suggestions from as many interests as possible. These questionaires and letters of inquiry were distributed in large numbers all over the State and in many cases sent to different parts of the country.

* Since this report was submitted the Court of Appeals has rendered a unanimous decision in favor of the constitutionality of the law prohibiting night work of women in factories. A copy of the court's opinion by Judge Hiscock is set forth at p. 359, *infra*.

The principal questionaires and letters of inquiry issued by the Commission may be grouped under three heads:

1. Wages and wage legislation.
2. Fire hazard in mercantile establishments.
3. Consolidation of departments making inspections of buildings in New York city.

I. QUESTIONAIRES AND LETTERS OF INQUIRY ON THE WAGE PROBLEM

The following letters of inquiry were issued on the subject of wages and wage legislation:

1. *Questionaire on the Cost of Living in New York State*

On May 4, 1914, the Commission issued a letter of inquiry addressed to several thousand employers, employees, representatives of labor organizations, officers of philanthropic organizations, social workers and others, asking for opinions, based on their experience and in the localities in which they resided, on "what amount on the average for a week or year, is required to support in health and working efficiency:

1. A young woman of 16-18 years living independently.
2. A young man of 16-18 years living independently.
3. An adult woman living independently.
4. An adult man living independently.
5. A normal family containing one man at work, one woman doing her own housework and three children under fourteen at school."

The Commission also asked that items of expense for lodging, food, clothing, insurance, recreation, savings, etc., be separately specified where possible. A large number of instructive replies were received, which have been incorporated in the report of Dr. Streightoff on the Standard of Living. (Appendix VII, to which reference has already been made.)

2. *Memoranda on the Relationship Between Low Wages and Vice and Immorality Among Women*

In every discussion of the wage problem reference has been made to the relationship between vice and low wages. The Commission when it was continued in 1914, considered the advisa-

bility of conducting an investigation into that subject. We consulted experts who had made similar investigations in this and other states and were advised that in the time and with the resources that were at the disposal of the Commission, very little data, in addition to what had already been gathered in similar investigations conducted elsewhere, could be obtained. The subject, although most difficult to investigate, is very important and the Commission felt that the Legislature should have the best information available at this time. On May 29, 1914, the Commission issued a letter asking for a memorandum on the relationship between low wages and the vice problem and immorality among women, what effect a living wage would have on that problem and the advisability of enacting minimum wage legislation. The letter was sent to a group of men and women, well qualified to speak with authority because of their deep interest and knowledge, obtained through many years of experience and study in these matters. The following submitted statements:

Dr. Katharine B. Davis, Commissioner of Corrections of New York City, formerly Superintendent of the Bedford Reformatory for Women, New York.

Martha P. Falconer, Superintendent Girls' Department of the Glen Mills Schools, Sleighton Farms, Darling, Pa.

Dr. Abraham Flexner, Assistant Secretary, General Education Board.

George J. Kneeland, Director, Department of Investigation, American Social Hygiene Association, Director of Vice Investigations.

Maude E. Miner, Secretary, New York Probation and Protective Association.

James Bronson Reynolds, Counsel, American Social Hygiene Association.

Mary K. Simkhovitch, Director, Greenwich Home New York City.

Frederick K. Whitin, General Secretary, the Committee of Fourteen, New York City.

The letter of inquiry and the memoranda received are set forth in Appendix III.

3. *Questionaire on the Wage Problem*

On July 1, 1914, the Commission sent out a questionaire on the wage problem. Among the important questions submitted for consideration were the following:

1. What factors determine the rates of wages which any one individual worker or different groups of workers receive?

2. Do wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole?

3. If number 2 is true in general, are there any particular industries or groups of workers that for special reasons are an exception to it?

4. If present wages in general or for any particular groups of workers are inadequate, how can they be raised?

5. If govenmental action is desirable, is the best form the establishment of a minimum wage (the amount to be determined for different industries, after investigation by some administrative body)? If not, what other governmental action is available and how can it be secured?

6. If the establishment of a minimum wage is desirable should its application be limited to women and minors? Why?

7. If a minimum wage were established by governmental action, what administrative agency should fix the minimum?

8. What would be the effects of a minimum wage?

This questionaire was sent to several thousand people throughout the country, including experts, representatives of labor, professional men, members of economic and statistical organizations and others. The questionaire and the replies received are set forth in Appendix III.

4. *Wage Symposium*

The questionaire on the wage problem above referred to, was supplemented by a letter by the Commission on September 29, 1914, asking for a statement of views on the subject of minimum wage legislation, to what extent it should be enacted, the difficulties of administration and how they might be overcome.

This letter was sent to groups of men and women representing various interests and different points of view — economists, social workers, lawyers, representatives of labor, and employers and their representatives. The memoranda received in response to this inquiry have been arranged in the form of a symposium, set forth in Appendix III.

Attention is called to the section containing the views of economists which presents for the first time in collective form the views of leading economists of the country on the subject of wage legislation. That we have been able to obtain these statements is due in large part to the co-operation of a sub-committee of the Advisory Committee on Wage Legislation, consisting of Professors Fisher, Jenks, Lindsay, Seager and Wilcox, who joined in our request to the economists for an expression of their views.

5. *Memoranda on the Relationship Between Wages and Industrial Education*

In October, 1914, the Commission issued a letter, addressed to a group of experts, on the subject of industrial education, asking for a statement of their views on the relationship between wages, efficiency and industrial and vocational training. The replies received are presented in Appendix III.

II. LIST OF QUESTIONS ON THE FIRE HAZARD IN MERCANTILE ESTABLISHMENTS

The Commission issued a list of questions dealing with the problem of the fire hazard in mercantile establishments, a copy of which is set forth in Appendix III.

III. QUESTIONAIRE ON THE CONSOLIDATION OF DEPARTMENTS MAKING INSPECTION OF BUILDINGS IN NEW YORK CITY

The Commission issued a list of questions with reference to the inspection of buildings by different departments in New York City, and a tentative plan for the consolidation of their functions. A list of such questions, and the tentative plan are set forth in Appendix III.

PUBLIC HEARINGS AND EXECUTIVE SESSIONS

The commission held the following public hearings during the past year:

1914			
April	28.	New York City.....	Fire Hazard in Mercantile Establishments.
May	18.	New York City.....	Duplication of Inspections of Buildings.
June	22.	New York City.....	Recodification of the Labor Law.
June	23.	New York City.....	Recodification of the Labor Law.
June	24.	New York City.....	Fire Hazard in Mercantile Establishments and Recodification of the Labor Law.
June	25.	New York City.....	Recodification of the Labor Law.
June	26.	New York City.....	Recodification of the Labor Law.
June	29.	New York City.....	Hours of Labor of Railroad and Railway Employees.
July	6.	Buffalo	Recodification of the Labor Law.
July	7.	Buffalo	Fire Hazard in Mercantile Establishments.
July	8.	Rochester	Recodification of the Labor Law.
July	9.	Syracuse	Recodification of the Labor Law.
July	10.	Utica	Recodification of the Labor Law.
July	11.	Albany	Recodification of the Labor Law.
Nov.	23.	New York City.....	Consolidation of Departments Having Jurisdiction over Buildings.
Nov.	24.	New York City.....	Consolidation of Departments Having Jurisdiction over Buildings.
Dec.	1.	New York City.....	Wages and Wage Legislation.
Dec.	2.	New York City.....	Wages and Wage Legislation.
Dec.	11.	New York City.....	Amendments to the Public Works Article of the Labor Law.
1915.			
Jan.	7.	New York City.....	Wages and Wage Legislation.
Jan.	8.	New York City.....	Wages and Wage Legislation.
Jan.	9.	New York City.....	Wages and Wage Legislation.
Jan.	22.	New York City.....	Wages and Wage Legislation.

In addition to these public hearings, the Commission held a number of conferences on the subject of the consolidation of departments having jurisdiction over buildings in New York City and a number of meetings were had with members of the advisory committees on the subject of wages and on the recodification of the labor law. Numerous executive sessions of the Commission were held from time to time to determine the plan of investigation, receive reports of investigators, and agree upon recommendations.

The minutes of the testimony taken by the Commission, (numbering 3,118 pages) are presented with and made a part of this report.

APPRECIATION OF ASSISTANCE

The Commission desires to express its sincere appreciation of the valuable assistance and co-operation rendered in its work at all times by large numbers of men and women, including employers, manufacturers, employees, city and State officials, officers of civic and philanthropic organizations and others. We have received so much valuable assistance from all sources that it is impossible for us to make personal acknowledgment of the services rendered. We desire in particular to express our appreciation of the services rendered by the different advisory committees appointed to assist the Commission in its work, and to those who took the time and trouble to submit statements and memoranda to the Commission which constitute an important part of the Commission's report.

CONTENTS OF THE REPORT

1. WAGES AND WAGE LEGISLATION

2. RECODIFICATION OF THE LABOR LAW

3. CONSOLIDATION OF DEPARTMENTS HAVING JURISDICTION OVER BUILDINGS IN NEW YORK CITY

I. WAGES AND WAGE LEGISLATION

The Commission would call attention to certain aspects and findings of the investigation, while desirous of avoiding repetition. It has been neither a formal study of wage figures, nor a prying and searching for unusual and sensational material. So far as was practicable all the principal questions connected with the subject of wages were covered. The data regarding wages were in every instance obtained from employer's records, and were amply corroborated by interviews with workers. The personal information relates not only to the nationality, sex and age of employees, but includes occupation, experience and other factors related to the question of wages. Employers were invited to examine the data obtained in their establishments and freely to offer such criticisms, suggestions or explanations as they deemed fit. More than 2,000 interviews were held with employees in order to obtain detailed accounts of their industrial and personal history, their earnings, expenditures and manner of living. These data have been gathered throughout the State from employees in the confectionery, paper box, men's shirts, millinery and button industries, and mercantile establishments.

While the inquiry has not been limited to women and minors, they predominate in the trades investigated, and the Commission in presenting this summary of its report, confines itself wholly to the question of the wages paid women and minors. Many men are receiving low wages and the investigation shows that many men cannot properly support themselves nor support a family on what they receive. But in America, where the constitutionality of wage legislation is still undecided, even when it affects only women, and where legislation for the protection of men has been generally declared unconstitutional and has thus far received little public support, it has been deemed wiser to deal with this problem solely as it relates to women and minors. It is also clear that the number of women who receive a low wage exceeds greatly the

number of men, and the need of remedial action in their behalf is immensely more urgent. In England and Australasia men as well as women are included in wage legislation, but there is strong public prejudice against any such inclusion in this country.

The number of persons and firms investigated are:

	Establishments	Number of employees
Mercantile establishments	143	69,999
Shirt factories	112	13,056
Paper box factories	238	11,760
Confectionery	84	9,767
Millinery	57	3,983
Buttons	59	916
	693	109,481

WAGES

One-half of all the wage earners including men and women, in the four principal industries investigated (confectionery, paper box and shirt manufacturing and mercantile establishments), receive less than $8.00 a week. Out of a total of 104,000 persons, one-eighth receive less than $5.00, one-third less than $7.00, two-thirds less than $10.00, and only one-sixth are paid $15.00 or more.

In speaking of wages, one important distinction should be made between the *wage rate,* which is the amount a person may expect to earn when steadily at work, or after completing an allotted task within a certain period of time, and the *actual earnings,* which are frequently less than the rates quoted because of part time or irregular work, and fines for lateness, breakage, mistakes, and payment for machine, needle and thread,— such as, for instance, is still the custom in some establishments in the shirt industry.

One-half of all the employees, including men and women, in the mercantile establishments investigated, are rated at less than $9.00 a week. A large majority, about 40,000, of these low paid employees are women and girls. Of these, more than 20,000

(fifty-four per cent.) are rated at less than $7.50 per week, and more than 10,000 (twenty-five per cent.) at less than $6.00. In the shirt manufacturing establishments, where about 3,000 girls and women are employed by the week, more than half (1,561, or fifty-three per cent.) are rated at less than $5.00. Similarly, out of 4,000 women and girls employed in the paper box factories, more than 2,000 (fifty-three per cent.) are rated at less than $6.50 a week, and 1,200 (thirty per cent.) at less than $5.50. In the confectionery establishments out of 4,600 female workers more than 2,300 (fifty-two per cent.) are employed at less than $6.00, and almost 1,000 (twenty-one per cent.) at less than $5.00 for a full week's work.

Piece Rates.— It is customary in all these trades to pay some workers by the piece instead of by the week. This means that in the busy season there is a greater opportunity of making more money, but it is usual, especially in the unorganized trades, to drive the workers to excessive speed. For instance, in the investigation of the confectionery industry, it is found that a hand dipper must coat about 15 pounds, say 720 pieces of cream candy with chocolate per hour, or one piece every five seconds, to earn 15 cents. A girl to earn $6 a week in the paper box industry must paste paper strips on the sides of 6,000 boxes, or one every half minute. To earn $6.50 a week a shirt operator must join the backs and fronts of 5,208 shirts.

Rates and Earnings.— If the season is slack in any one of these trades, a girl does not make as much money. In any adequate consideration of wages, therefore, the actual weekly earnings must be taken into account both for time workers and for piece workers, and it is recognized that these earnings form a better criterion of remuneration than the statement of rates of wages by themselves.

Women's Earnings.— Taking account, then, of the money actually received as wages by the women and girls employed in these industries, it is found that in the stores the earnings of 20,000 females (54 per cent. of all employed) are less than $7.50 per week; 10,000 (25 per cent.) receive less than $5.50 during an ordinary week. These earnings include, where ascertainable, all commissions paid to salespeople. In the shirt industry, which is largely on a piece work basis, of about 9,000 employed more

than 4,800 (54 per cent.) received less than $7.00 at the end of a week, and more than 2,500 (26 per cent.) received less than $5.00. In the manufacture of paper boxes the proportions are about the same — of some 7,500 females employed more than one-half (4,000 or 55 per cent.) receive less than $7.00, and almost one-fourth (1,600 or 22 per cent.) less than $5.00. In the confectionery industry, employing about 5,500 almost 3,000 (55 per cent.) receive less than $6.00, and more than 1,100 (21 per cent.) less than $5.00.

AGE, EXPERIENCE AND PERSONAL CONDITION

Wage and Experience.— These low wages are by no means paid only to apprentices, either in factories or stores, but to large numbers of women who have been continuously in industry for years, many of whom have been working for the same employer a long time and whose very presence in the factory or shop for so long a period presupposes efficiency.

Half of those who have five years experience in stores are receiving less than $8.00 a week, and only half of those with ten years experience receive $10.00 or more. In the large department stores, 53 per cent. of the women get less than $8.00 a week; in the smaller neighborhood stores, 68 per cent. get less than $8.00, and in the 5 and 10 cent stores, 99 per cent. get less than $8.00 a week.

Age and Wage.— Sixty per cent. of the women in mercantile establishments are over twenty-one years old. The same is true in the shirt and paper box industries, though in the candy trade 54 per cent. are between 16 and 21. The majority of the women in the trades studied reach the $8.00 level only after 30 years of age.

Home Relations.— The explanation, and frequently the excuse, for the prevalence of low wages paid to women, is the assumption that they do not need to be self-supporting, but are living at home. The value of a worker should not be judged by the fact that she may be supported by another member of her family. She is a unit in the industry in which she works, and for her labor the industry should pay her at least a wage adequate for self-support.

Our investigation shows that two-thirds to three-fourths of all women and girls employed are unmarried, but it shows clearly that they do not work for pin money. Women workers are in industry because they must be there either to support themselves, to eke out the earnings of other members of the family or because through accident or chance, the entire burden of supporting the family has fallen upon them. Women who are widowed, divorced or deserted, women solely dependent upon themselves, girls whose fathers have died or are ill, are among this great army of workers in no small numbers.

In a special study of 1,300 individual women, it was found that 65 per cent. live with their families, 75 per cent. of whom turned all their wages into the family budget, and more than 20 per cent. paid board; 15 per cent. live entirely alone, or with strangers or friends.

COST OF LIVING

A typical weekly budget of a girl working in a trade for $6.00 a week is as follows:

Half of the furnished room	$1 50
Breakfast and dinner	2 10
Lunch	70
Carfare	60
Clothes at $52 a year	1 00
Total	$5 90

This leaves a balance of 10 cents. In this account there is no allowance possible for doctor or dentist, amusements, newspapers or extra carfare. After saving the balance for one year, this girl would have $5.20 if she worked steadily and had no expenditures other than those given in the schedule. But the trade in which she works is seasonal so she will not work the full 52 weeks. Her annual income may therefore be reduced one-fifth or more from even the low level given above.

Dr. Streightoff in his report states that the cost of living includes: "food, clothing, shelter, intellectual development, recreation and a provision for the future." He holds this to be a concept

of a decent livelihood which is defensible at every point. In considering the question of adequate self-support the standard of living set by such an organization as the Young Women's Christian Association, dealing largely with working women, may be accepted. This organization has a list of available rooms and boarding places, which have been investigated, and which it considers suitable for working women. On inquiry, it is found that there are only a few rooms in New York City at $2.50 a week; that comfortable rooms can be secured usually only at $4.00 a week and that occasionally board and lodging may be had for $7.00, but that the usual price is $9.00.

It is quite apparent that this standard is altogether too high for the great mass of working women investigated, over 50 per cent. of whom receive less than $8.00 a week. Dr. Streightoff, after careful computation and study of reports of students of the subject, concludes that the very lowest sum upon which a working woman can decently maintain herself in that "city of the State where the rents and food prices seem about the lowest, in Buffalo, is $8.20 per week the year round, and in New York City, $9.00." Even at this figure it will be seen that the great army of working women can not adequately support themselves.

IRREGULARITY OF EMPLOYMENT AND LACK OF STANDARDIZATION IN TRADES

The trades that have been investigated are all seasonal, that is, for a certain period of time there is slack work or no work, which means that a great group of workers do not earn as much as the weekly rate quoted, and during some periods, varying from one to ten weeks, earn nothing at all. Twenty-five per cent. of the workers in the confectionery trade are discharged immediately after Christmas, and in the shirt industry there is a fluctuation of 33 per cent. Eighteen large department stores in New York City employed in their busy season before Christmas, about 56,000 people, and in their slack season, during the summer, about 35,000 — a difference of about 21,000 people. The usual number employed is about 42,000. But this seasonal fluctuation by no means represents the extent of shifting from one establishment to another, In the confectionery and paper box industries three times as many

people as the firms ordinarily employ at one time, entered and left the industries. Out of 3,983 workers employed in the millinery shops, only 17 per cent. appeared on the payroll of any one shop 40 weeks or longer in the year studied, while 52 per cent. worked but 8 weeks in the same shop.

The workers that are dismissed most quickly are the low paid workers who can least bear being out of work. Their wages are too low to admit of saving during the time of employment, and thus they are destitute of any means of self-support. For instance, Tina, an operator in a clothing manufacturing establishment received $7.00 to $8.00 a week when she was working full time and overtime. During slack season her earnings dropped to nothing, or to as little as $3.00 and $3.50 a week. Her total income for the year was $262.00.

In the department stores the shifting of employees is extremely great. A striking illustration is found in the records of one of the large New York City department stores which hired over 12,000 employees in one year in order to maintain a permanent force of a little over 3,000.

NUMBER OF EMPLOYEES IN SEVEN LARGEST DEPARTMENT STORES

Average number employed	Number added during the year	Number dropped or leaving during the year
5,000	5,500	.....
4,296	5,979	5,950
4,272	6,809	6,712
3,750	12,159	10,382
3,500	8,155	8,750
3,497	875	940
2,313	2,967	2,539

In going over the reports it is apparent that these industries are in a chaotic condition as relates to standards of wages and regularity of employment. Both wages and irregularity of employment testify to this. There appears to be no wage standard throughout these trades. In one factory paper cutters were receiving from $10 to $15, while in another factory they received for the same kind of work $15 to $20. The laborers in one candy

factory received $8 or over, and in another they received less, and never more. In New York City the rate for a certain line of work in shirt making was from 1 to 5 cents a dozen. In another city for a slightly better grade of work 5 to 10 cents a dozen. Some of the manufacturers were amazed at the low price paid for this labor and would not believe it until confronted by the facts.

Prison Labor and Home Work.— Wages in the shirt industry are further depressed by competition with institution made shirts which are sold in the open market, largely from prisons in Rhode Island and Maryland, but also from the West. The extent of this competition is not exactly known, but the output from only two institutions in 1913 was 195,000 dozen shirts. In other lines of work there is more or less competition with home work, which the Commission in an earlier report recommended be prohibited entirely by gradual steps.

VOCATIONAL AND TRADE TRAINING

The Commission inquired into the question of vocational and trade training in relation to these low paying industries. In the paper box industry an extensive study was made by Professor Robert J. Leonard, of Indiana University. This industry has followed the usual line of development. There is a great subdivision of labor, a worker does but one thing over and over again throughout the entire day. A short course in vocational training was recommended in certain departments where men worked, but in the case of girls and women, who constituted 82 per cent. of the workers, the conclusion was reached, "that no scheme of vocational training would increase the wage earning at all for the great bulk of workers." In this he was upheld by most of the employers.

It might be possible to increase the wage earning capacity of individual girls simply by giving them an opportunity to try out their qualification in the different branches of the trade,— but even so simple a matter as this has been tried only by a few managers. Purely by chance does the girl find herself in her work. This is illustrative of other trades where there is a great subdivision of labor. Boys and girls enter these trades because in their search for work they chance upon a sign or advertisement

that they are wanted,— but such work is more likely to lead to no opportunity for development than to any good position. At last it is being recognized that a large majority of workers enter the so-called enervating trades which require no judgment nor knowledge, no initiative and no planning, but solely the habit of automatic repetition, which is destructive of self-expression. The demand on the part of the public for vocational training is not only a challenge to the schools to give it, but more especially to the industries. As Dr. John H. Finley, State Commissioner of Education, wrote in a statement to the Commission, "It is a challenge to each industry as to what it has to offer the boy or girl whom it invites into its factory doors. A challenge to show a clean bill of health with respect to all such factors as opportunity for advancement, educational content, wages, hours, and hygienic conditions." The State must recognize its obligations to co-operate with industry for the advancement of its citizens, and industry must recognize its obligation to the State. If industry has been so developed that it makes for intellectual deterioration in its workers, the State in some manner must counteract and correct that evil. Herman Schneider, dean of the College of Engineering of the University of Cincinnati, in his report to the Committee on School Inquiry of the Board of Estimate and Apportionment of the City of New York, states that "It is safe to say that the morale of a community depends upon the kind of work it does. A rural community of about twelve thousand people, having clean political conditions, a high moral tone, few jarring families, well kept gardens, and a good average of intelligence, is a desirable place from the manufacturer's viewpoint, in which to locate a factory. If a manufacturer locates in such a place and employs three thousand of the men, women and children in purely *automatic, noisy, high-speed work*, the town will change very materially in one generation."

EXPRESSION OF PUBLIC OPINION

Six public hearings were held upon this subject. The first, at which the results of the investigation were given, was followed a week later by others at which people who were interested in this

question could express themselves publicly. Both at the hearings and in answer to the questionaire the Commission sent out reasons were presented both for and against state interference with wages of women and unions.

The Commission desires to summarize the objections interposed to wage legislation as follows:

1. That wages are regulated by the "law of supply and demand."

2. That a minimum wage law would put an unfair burden on the industries in the State because of the absence of similar laws in competing states, and that the effect would be to drive industries from the State.

3. It would throw out of employment many workers, especially the inefficient who are partially self-supporting, thereby placing a greater burden upon the families.

4. It would increase the cost of production and consequently increase the price to the consumer and be of no benefit to the worker, who would lose as consumer what she gained as worker.

5. The minimum wage would become the maximum.

6. It should be left to the workers to increase their wages.

7. It would compromise the functions and power of trade unions.

8. It would shorten the seasons.

9. If the law made the establishment of minimum wages compulsory it would be a limitation upon the liberty of employers to contract to employ a person and the employee to contract to work, and that if the State can establish a minimum rate it can also establish a maximum rate and force the workers to work for that.

10. The State should not interfere in any form with the rights of employers to pay what wages they wished.

11. It would be a disadvantage to and jeopardize the struggle for the enfranchisement of women.

12. Wages could be increased through industrial training, which would make the workers more efficient.

The arguments in support of wage legislation may be summarized as follows:

1. "There is no such inexorable rule as the 'law of supply and demand.' It is an economic tendency, but there are conditions

under which the 'law of supply and demand' does not work. We here in New York are particularly familiar with and have been made familiar during this war with the fact that conditions arise where the 'law of supply and demand' fails so absolutely to work that we have had to close for three or four months the stock exchange. Other exchanges throughout the world have had to be closed simply because we come to a point where for one reason or another the 'law of supply and demand' does not work. The only reason why the trade union had to come into existence was because the 'law of supply and demand' did not properly work between the opposing forces of the more powerful employer and the individual worker." It must be remembered that there is ever in our midst as a result of economic conditions, an army of unemployed. This tends to keep the wages of the so-called unskilled workers at the lowest possible level, and thus, by leaving the wage question to the "law of supply and demand" we permit of a most perfect system of exploitation.

2. In any given industry which would come under a minimum wage law, all employees within the State would be equally affected, so that competition would not be disturbed. The industry would not bear a greater burden than it does now, when through trade union organization wages in one industry in one State are increased and not in another. There is not even today a uniformity of conditions in competing industries in different states, nor in the same state, as wages alone are not the deciding factor. The threat of moving out of the state is a century-old argument and has been used every time any factory law was advocated, whether it was prohibiting the hours of labor for women, of child labor, or less important ones. As long as the public welfare, health, safety and morale require any restriction, the State accepts restriction. The employee must be protected not only in his own interest but in the interest of society.

3. That a minimum wage would throw out of employment a large group of workers has not been the experience in those countries where it has been tried, and if wage boards increase the wages of the low paid workers gradually, no such disaster would follow. It is based on the alleged fact, a fact not established through any investigation of the subject, that the worth of

an employee's service is exactly known; that the girl who receives $3.50, $4.50 or $6.00 is exactly worth that sum to the employer. The subdivision of labor makes it very difficult for the employer to compute the exact value of the work done by each girl, but however unskilled her work may be, she is a necessary part in the process of completing the article and therefore of importance. We would not say that the spark plug of an automobile is as valuable as the automobile itself, yet without the spark plug the automobile is useless as a vehicle. However, it is desirable to eliminate the incompetent and defective workers from competition with competent ones. They now freely compete with the competents, thus driving down wages. This group is by no means as great as is sometimes assumed, for even now, at any wage, the employer selects the most capable persons obtainable.

4. At the hearings before the Commission it was stated that after the initial period of introduction the cost of production would be reduced rather than increased because the worker will be more competent, being in better physical condition as the normal result of better food. A striking instance of increased efficiency was given by Mr. N. I. Stone from the investigation of the tariff board. As a result of an eight months' strike in the largest paper mills in the country, an eight hour shift was established in place of a twelve hour shift, resulting in a practical increase in wages of thirty-three and one-third per cent. Within the year it was found that the cost of production had decreased ten per cent. with no other changes except the change from twelve to eight hours. The cheap worker is disregarded, the wage paid him is so little he is not worth considering. Our investigations show that it is the cheap worker who is first dismissed. It was difficult to obtain information regarding the cost of production, but in the making of men's work shirts, which retail at fifty cents it was found that it cost the manufacturers $2.35 per dozen; he sells them to the jobber at $3.00 or $3.50 a dozen. The material in the shirt costs about twenty cents, the labor for cutting, sewing and tacking costs a little less than five cents. That is, the labor cost is only 20 per cent. of all expenses. Therefore an increase of 10 per cent. in the pay roll would amount to only 2 per cent.

in the cost. This will indicate that an increase in the labor cost, if it did affect production, still would not necessarily compare to any increase in the price to the consumer.

Aside from this, the conditions which exist today in the so-called sweated industries are such that if they are continued, there will be an ever increasing number of dependent classes for which increased appropriations must be made by the State, the ultimate cost of which would fall upon the consumer in the form of taxes. "Our dangers with the dependent classes which we are producing, by just such conditions as the Minimum Wage Law is endeavoring to remedy, will become so great that society cannot bear it. We cannot by any process of public or private charity carry the load we are creating under our industrial conditions. We will pay the price at compound interest, not only compound interest, but with compound interest at usurers' rates." But if the welfare of the State required it, might it not be best for the consumer to pay in a small increase of cost instead of an increase of taxation to repair human waste?

5. There is no reason to fear that the minimum wage will become the maximum. It has not proven to be so in those industries where it has been tried. In Australia, for instance, women making a certain grade of clothing have a minimum wage of $9, but the average wage is $10.50. There is not as much reason why a minimum fixed by law should become a maximum as if it is fixed by the trade union, and yet in the garment industry in New York City, the minimum fixed by the protocol is by no means the maximum, which in some instances is 50 per cent. more. Individual differences would still be recognized, and as long as individual differences exist and no limitations are placed on production, there is no reason to fear the minimum becoming the maximum.

6. There is no question but that it would be altogether more desirable for the workers through collective action with their employers, to establish higher rates of wages than they are getting, but it is clearly shown that there are thousands of workers who have failed to compel an increase in wages. They have either been too heavily handicapped, too ignorant, or the difficulties have been too unsurmountable to permit of collective

action. The establishment of a minimum wage would in no way interfere with collective bargaining.

7. The fear on the part of certain trade unions that it would compromise the functions and power of trade unions, would seem to be effectively answered by the reports from Europe and Australia. Prof. M. B. Hammond, who in 1911-1912 investigated this question in Australia, reports that the membership of the trade union has increased since the enactment of the wage laws, and that the trade unions corresponding to the American Federation of Labor here, are unqualifiedly in favor of the law, and while there is difference of opinion as to the working out of the law, neither employers nor workers wished to abolish it. The reports from England show that an increase in organization has followed in such trades as the tailors and the chain makers, though the lace makers have not been so successful. The fear that the incentive to belong to a union is removed, is unfounded, and absence of wage regulation has not induced the workers in those trades investigated to organize.

8. Reports from England show that the seasons have been lengthened and the fluctuation has been much lessened. High priced labor is not readily dismissed.

9. In answering the charge that it is a limitation on the right of contract, we quote: "The courts have uniformly held that under the constitution there is no power to compel any one to work. There is not only no contract that can do it, but no law can do it. I can see no difference whatever between infringing the liberty of contract with respect to the hours of labor, and infringing liberty of contract with respect to a minimum wage."

10. If it is desirable in the interest of the State to protect its citizens from exploitation, there is the same justification to prohibit employers from paying excessively low wages as for other modern restriction such as the prevention of the employment of women for more than a specified number of hours per day or at night, or in unsanitary workshops. Low wages are an outgrowth of bad economic conditions. The value of the work done is not considered at all in the hiring of such workers. What the deciding point is, is the need of the individual coupled with the number of competitors for the same job. If in the interest of the

State it is undesirable for women to be paid such low wages that they cannot support themselves while working, it is within the right of the State to protect them.

11. There are laws to-day protecting men even though they are enfranchised. To abolish any of the protective legislation now accepted for men and women would be most injurious. In 1911 the Legislature of California gave women the vote and the same Legislature passed the Eight Hour Day for women in many industries.

12. It was pointed out at the public hearings that efficiency in industry has become primarily a matter of management, because of the great subdivision of labor and because the increase in wages for efficiency, as has been shown by the investigation, is slight. Unless there is an incentive to efficiency it cannot be created. Industrial training will not become effective until the bread and butter question is solved. As one of the witnesses remarked, "It does absolutely no good to send a girl of 18 to a school where she will get additional education, if she is trying to live on $6.00 a week." In the millinery trade skilled workers did not earn enough so that they could support themselves. The mere efficiency of the worker will not guarantee a better wage.

CONCLUSIONS

After careful deliberation and study of the results of its investigation and the testimony taken, the Commission has come to the conclusion that the State is justified in protecting the under-paid women workers and minors in the interest of the State and society. It finds that there are thousands of women and minors employed in the industries throughout the State of New York who are receiving too low a wage adequately to maintain them in health and decent comfort. The Commission believes this injuriously affects the lives and health of these underpaid workers, and that it is opposed to the best interests and welfare of the people of the State.

In order to remedy this evil, the Commission recommends:

First. The enactment of a law creating a Wage Commission, which, after investigation, shall establish Wage Boards, composed of representatives of employers, employees and the public, in any

industry in which it has reason to believe women and minors are receiving less than a living wage. Wherever possible, the employers and workers are to be elected by their respective groups; but if this is impossible, employers and employees shall be notified of meetings at which the work of the Wage Commission shall be explained, and the representatives of the trade asked to present recommendations to the Wage Board. The Wage Commission, after public hearings, and upon consideration of the report of the Wage Board shall determine the amount of the living wage necessary for such women and minors, and recommend to employers payment thereof. The determination of the Wage Commission shall be published, and the Commission shall also be required to publish the names of employers who fail to comply with its recommendations.

The Commission submits herewith in Appendix I, a bill for the creation of a Wage Commission to carry into effect the foregoing recommendations.

Second. The adoption of an amendment to the Constitution empowering the Legislature to establish a Wage Commission which shall have power to fix living wages for women and minors in industry.

Third. That the Legislature submit this proposition to the Constitutional Convention for consideration.

The Commission does not at this time recommend that the Wage Commission be given power to enforce its determinations, for the following reasons:

1. The constitutionality of such a law has been challenged in a case now pending before the Supreme Court of the United States.

2. In an initial measure as provided in the bill recommended herewith, the question of wages should be adjusted by voluntary mutual action of those most directly concerned, aided by an enlightened public opinion. If, however, it should prove, after a fair test, that this method is ineffective, the Legislature should have unquestioned power to provide effective penalties to secure the proper enforcement of the determination of the Wage Commission.

The Commission holds that such Wage Boards will be the most effective means of standardizing these trades; that they would not put an unfair burden on the industries in the State; that it would not throw out of employment many workers, particularly if the Wage Boards worked out the problem with care; that the minimum would not become the maximum, but on the contrary that it will be of increased economic value due to better nourished workers, resulting in a more efficient output; that no appreciable increased cost of production would follow; that there is no limitation on the right of contract; and that it is the high duty of the State to protect its women workers from such excessively low wages as the investigation has shown. Even such an authority as the counsel for the manufacturers, Mr. Rome G. Brown, who was one of the attorneys to argue the case before the Supreme Court of the United States, involving the constitutionality of the minimum wage law in Oregon, stated before the Commission that such a law as proposed by this Commission is entirely proper.

While the Commission recognizes the value that vocational and trade training would give to a great group of young men and women entering industry, while it heartily endorses the work undertaken by State and city for the advancement of industry and trade training, it recognizes the fact that the development of machinery making for constantly simplifying processes in which less skill is required, gives no assurance that unaided these industries will be able to find a way out of the condition in which they are at present. "Any woman or child can handle this machine" is an advertisement frequently seen; and followed to its logical conclusion it would mean child labor displacing man and woman labor. This the State has guarded against through its child labor laws. It must guard against low wages in the same way, for it pays the penalty in the loss of a well balanced manhood and womanhood due to the disentegrating effects of these low wages. Hospitals, reformatories, asylums and prisons paid and cared for by the State, are inevitable results of low wages, and long periods of idleness.

It is believed that a Wage Board in each industry should not only consider the question of a weekly or hourly wage, and standardize minimum wage rates, but should take up the study

of seasonal unemployment. This difficult problem has been met by Justice Higgins, of the Australian Commonwealth Arbitration Court, in establishing a minimum wage for the deck and wharf laborers. He found that men worked but thirty hours a week, considering both slack and busy season, and the minimum wage was based upon the cost of living for those workers. The award was provisional until such time as the employers had set their house in order, and devised means whereby steadier work would be provided. This emphasizes one point, namely, the obligation on the part of the industry to pay for time as well as service rendered. For instance, if girls are kept in a factory all day long, whether they work or not, the industry holding them there should pay for their time, which they may not use in any way for themselves.

Doubtless, part of the remedy lies in keeping the number of young inexperienced boys and girls who now enter industry, in trade and vocational schools, and placing them in industry at the times of special rush only when they would get a certain amount of commercial training. This would also do much to standardize the industries. As speedily as possible the age limit of children who may be employed should be raised, at the same time raising the compulsory school age. Through this system of vocational trade and culture education, through State and city employment bureaus, through wage boards, a real impulse would be given to the standardization of these industries.

The Commission believes that it is of the utmost importance to hasten the establishment of a system of labor exchanges throughout the State and nation. This would help greatly in making it possible for the recently arrived immigrants to place themselves advantageously, which they are partially unable to do at the present time.

The Commission would respectfully urge the consideration of the problem of social insurance. Periods of unemployment, old age, and disability are an inevitable part of the industrial problem. Before order can be established in the industrial house of State and nation these problems must be solved.

II. RECODIFICATION OF THE LABOR LAW

The Commission in its second report to the Legislature called attention to the necessity for a complete recodification of the Labor Law. In that report the Commission said, at page 292:

> "The greater part of the legislation recommended by the Commission must take the form of amendments to the Labor Law. That statute, since its enactment in 1897, has been subjected to numerous amendments and has grown to be unwieldy and complicated. It is in need of revision that will simplify its form and arrangement and clarify its meaning. The Commission recommends that the Labor Law be properly recodified."

When the Commission was continued in 1913, it was authorized to prepare a recodification of the Labor Law. The Commission spent considerable time upon this work last year, issued a bill in tentative form, and then a bill on the subject was introduced in the Legislature. At the request of representatives of different parties in interest, the Commission did not press the bill for passage, because as the Commission was to be continued to complete its study of wages, it felt that it would be advisable to have action on the recodification deferred for another year, so that all interested in the subject would have ample opportunity to present their views and be heard by the Commission if desired.

After the last Legislature adjourned, the Commission issued the recodification in tentative form. Several thousand copies were sent to employers, manufacturers, representatives of labor organizations, civic organizations, and others interested, all over the State. Suggestions and criticisms were invited. The Commission held a series of hearings on the subject, at which the tentative bill was discussed at length in Buffalo, Rochester, Syracuse, Utica, Albany and New York City. Briefs and memoranda were received from many sources. After these public hearings, the Com-

mission appointed two advisory committees to consider the recodification of the Labor Law — one for New York City and one for up-state. We have already set forth the personnel of these committees.

After the public hearings and after the briefs and memoranda submitted, were considered by the Commission, a revised recodification of the Labor Law was issued, in which many of the suggestions that had been made for changes were incorporated. This revised recodification was sent to all those interested and contained a detailed statement of just what changes had been made in the former draft.

Several meetings of the advisory committees were held in New York City, at which the revised recodification was taken up section by section and discussed fully. Communications in writing were received from those members of the committees who were unable to attend. The widest publicity was given to this matter and the bill recodifying the Labor Law that is presented with this report has been prepared after careful consideration of suggestions and criticisms received from all concerned.

CHANGE IN ARRANGEMENT OF THE LABOR LAW

The bill recodifying the Labor Law, except as hereinafter indicated, is confined in the main to changes in form and arrangement, rather than to changes in the substance of the law. The Labor Law has been rearranged substantially along the lines indicated in our last report.

PRESENT ARRANGEMENT OF THE LABOR LAW

The present Labor Law contains the following articles:

Article I. Short title; definitions.
Article II. General provisions.
Article III. Department of Labor.
Article IIIa. Industrial board.
Article IV. Bureau of Inspection.
Article V. Bureau of Statistics and Information.
Article VI. Factories.
Article VII. Tenement-made articles.

Article VIII. Bakeries and confectioneries.
IX. Mines, tunnels and quarries.
X. Bureau of Mediation and Arbitration.
XI. Bureau of Industries and Immigration.
XII. Mercantile establishments.
XIII. Convict-made goods and duties of the Commissioner of Labor relative thereto.
XIV. Employers' liability.
XIVa. Workmen's compensation in dangerous employments.
XV. Employment of children in street trades.
(XVI. Laws repealed.)

PRESENT PLAN OF ARRANGEMENT

The idea of classification which evidently underlies the present arrangement of the Labor Law is that all provisions affecting a particular industry should be gathered into a separate article devoted to that industry. For example, in the article entitled "Factories," appear most of the provisions applicable to factories.

That it is practically impossible without wholly unnecessary repetition to accomplish the purpose of such a classification is evidenced by the fact that in the article entitled "General Provisions" there are a number of provisions which apply to factories, as well as to other establishments, and in the article entitled "Factories" there are some provisions which apply to other industrial establishments, as well as to factories.

The only justification for such a classification is the practical advantage of having grouped together all of the provisions of the law applicable to a particular industry. As a matter of fact, the present Labor Law does not present this desirable grouping of its provisions, and, as has been said, it is quite impossible to accomplish it without a very great deal of useless repetition of provisions applicable to several industries in the article devoted to each of those industries.

All the advantages of such a classification can be accomplished in the reprints of the law prepared by the Commissioner for the use of employers and the public. The Commissioner can readily collect

all the provisions of the Labor Law applicable to factories, no matter what article may contain them, and no matter to what other industries they may be applicable, and group them in a single pamphlet for the use of persons interested in legislation affecting factories.

PROPOSED CLASSIFICATION

We have, therefore, departed from the idea of classification underlying the present arrangement of the law. Briefly, we have adopted the following arrangement:

Group under headings, indicating the subject matter, all provisions dealing with the relations between the employer and the employee, as, for example, such matters as hours, wages, prohibited employments, etc.; and under headings, indicating the industries to which they apply, all provisions relating to the physical conditions under which the work is done, as, for example, construction, equipment and method of operation of places of employment. Following this plan of grouping the provisions of the law, we have used the following arrangement:

Article 1. Short title; definitions.
2. The department of labor.
3. General provisions.
4. Employment of children and females.
5. Hours of labor.
6. Payment of wages.
7. Public work.
8. Immigration lodging-houses.
9. Building construction and repair work.
10. Factories.
11. Bakeries and manufacture of food products.
12. Tenement-made articles.
13. Mercantile establishments.
14. Mines, tunnels and quarries; employment in compressed air.
15. Violations and penalties.
16. Laws repealed.

NEW ARTICLE, "THE DEPARTMENT OF LABOR"

Particular attention is called to the new article 2, "The Department of Labor." In this we have attempted to cover the whole field of organization and powers and duties of the Department, and to include, as far as possible, all the provisions relating to administration and enforcement.

The provisions in the existing Labor Law relating to right of entry, inspection, notices and orders to comply with the provisions of the law, have been covered by general sections in this new article.

REPEAL OF PRESENT ARTICLES OF THE LABOR LAW

We have omitted from the proposed revision all of the provisions contained in Article XIII, relating to convict-made goods; Article XIV, relating to employers' liability; Article XIV-a, relating to workmen's compensation; and Article XV, relating to children in the street trades.

Article XIV-a, dealing with workmen's compensation, and declared unconstitutional in the Ives case, was repealed at the recent special session of the Legislature.

We also recommend the repeal of Article XIII, dealing with convict-made goods, because it has been held to be unconstitutional, and is now ineffective. (People v. Hawkins, 157 N. Y. 1, 1898; People v. Raynes, 136 App. Div. 417, 1910, affirmed 198 N. Y. 539, 622, 1910.)

This article prohibits the sale of convict-made goods without a license and provides for the issue and revocation of licenses. It also requires convict-made goods to be labeled and marked as such and prohibits the sale thereof without such label and mark. Section 620 of the Penal Law punishes as a misdemeanor acts which constitute violations of the provisions of this article.

While we approve of omitting this provision, in the recodification of the Labor Law, because the decision of the Court of Appeals makes it a nullity, yet we are in favor of proper legislation which will carry into effect the same principles. If necessary, the matter should be submitted to the Constitutional Convention, which is soon to be held, so that constitutional authority may be had for legislation upon the subject. If it is necessary to have

such legislation authorized by federal statute then we approve of the enactment of a federal statute embodying legislation embracing this principle.

TRANSFER OF CERTAIN PROVISIONS OF THE LABOR LAW TO OTHER LAWS

We recommend the transfer to other chapters of the Consolidated Laws of:

1. Article XIV, dealing with employers' liability and voluntary workmen's compensation. The recently enacted Workmen's Compensation Act was made chapter 67 of the Consolidated Laws. We recommend that the provisions of this article be transferred to a new chapter of the Consolidated Laws to be known as chapter 68, so that the whole of the Statutory Law dealing with employers' liability for injuries to his employees will be together for convenient reference.

2. Article XV, dealing with children in the street trades. The provisions of this article are now enforced by the police and attendance officers. We suggest that its provisions be transferred to the Education Law.

3. Section 156, subdivision two, providing that the Commissioner of Labor shall procure with the consent of the federal authorities complete lists giving the names, age, etc., of all alien children of school age and deliver copies of such list to the Boards of Education and school boards in the State to aid in the enforcement of the Compulsory Education Law. We recommend that this section be transferred to the Education Law and that the State Commissioner of Education be authorized to procure such lists, for that is a function which properly belongs to the Education Department of the State.

4. Section 9 of the Labor Law, providing priority payment of wages of employees by a corporation and partnership. We recommend that the provisions of this section be transferred to the General Corporation Law and Partnership Law respectively.

The fact that the Department of Labor does not have any power or duty to enforce the provisions of the foregoing articles and sections constitutes an added reason for their omission from the revised Labor Law.

CONSOLIDATION OF PROVISIONS RELATING TO EMPLOYMENT CERTIFICATES

We have consolidated the lengthy provisions of the present law relating to the issuance of employment certificates (section 71 to 76, and sections 163 to 167 of the present law), and put them in the new Article 4 "Employment of Children and Females."

The two series of provisions are practically identical, and by consolidating them the unnecessary repetition of more than 2,000 words is avoided.

CHANGE IN THE DEFINITION OF FACTORY

The present Labor Law defines a factory as follows:

> "Sec. 2, Subdivision 1. The term 'factory' includes any mill, workshop or other manufacturing or business establishment, and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at labor."

This definition was not recommended by the Factory Commission. It has been in the law since 1886. Pursuant to a widespread demand for a change in this definition to meet present conditions, this Commission, after consideration, has recommended in the recodification of the Labor Law the following amendment:*

> "The term 'factory,' [when used in this chapter, shall be construed to] includes any mill, workshop, or other manufacturing [or business] establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at [labor], *manufacturing including making, altering, repairing, finishing, bottling, canning, cleaning or laundering any article or thing, in whole or in part,* except power houses, generating plants, barns, storage houses, sheds and other structures owned or operated by a public service corporation, other than construction or repair shops, subject to the jurisdiction of the public service commission under the public service commissions law.

* Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

The provisions of this chapter affecting structural changes and alterations, and the installation of fixtures and apparatus other than for the safeguarding of machinery shall not apply to factories or to any buildings, sheds, structures or other places used for or in connection therewith where less than five persons are employed at manufacturing except as prescribed by the industrial board in its rules."

We believe that this change will result in the removal of many objections to the law, the structural provisions of which were, as a matter of fact not intended to apply to small establishments where only a few persons were employed.

CHANGE IN THE DEFINITION OF FACTORY BUILDING

The Commission recommends the following change in the definition of factory buildings:

"The term 'factory building', [when used in this chapter] means any building, shed or structure which, or any part of which, is occupied by or used for a factory, *and in which at least one-tenth of all the persons employed in the building are engaged in work for a factory, but shall not include a building used exclusively for dwelling purposes above the first story. The provisions of this chapter shall so far as prescribed by the industrial board in its rules, also apply to any building, not a factory building within the meaning hereof, any part of which is occupied by or used for a factory."*

This will remove the objection that a building in which only a few persons are employed at manufacturing would come under the provisions of the Labor Law relating to structural requirements.

CHANGE IN THE DEFINITION OF MERCANTILE ESTABLISHMENT

This definition has been in the law since 1896. We recommend a change along the lines indicated in the change of the definition of a factory, as follows:

"The term 'mercantile establishment' [when used in this chapter] means any place where goods, wares or merchandise are offered for sale. *The provisions of this chapter affecting structural changes and alterations, and the installation of fixtures and apparatus shall not apply to mercantile establishments where less than five persons are employed except as prescribed by the industrial board in its rules.*"

DEFINITION OF MERCANTILE BUILDING

We recommend that the following definition of mercantile building be added to the Labor Law:

"The term 'mercantile building' means any building, shed or structure, (other than a factory building) which or any part of which is occupied by or used for a mercantile establishment and in which at least twenty per cent of all the persons employed in the building are engaged in work for a mercantile establishment, but shall not include a building used exclusively for dwelling purposes above the first story."

This definition will eliminate from the requirements of the Labor Law, buildings which are used in the main as office buildings, to which the provisions of the Labor Law, particularly those relating to the structural changes, were not intended to apply.

In all of these cases power has been reserved for the industrial board to apply such provisions of the law as they might find necessary to secure safety of employees, to any place where one or more persons are employed at labor.

LABOR LAW MADE MORE FLEXIBLE

The most important change in the Labor Law made in the recodification, is that the law is made more flexible. The creation of an industrial board, which was viewed with considerable doubt, especially by the manufacturers, has succeeded well in practice. It is the view of those directly concerned with the operation of the Labor Law, that the powers of the Board should be increased — that it should have power not only to add to the minimum requirements of the law, but in proper cases, where there are difficulties in complying with the strict letter of the law, or unnecessary hard-

ship in so doing, the board should have power upon petition to grant a modification which will secure safety of employees and the public, and at the same time do substantial justice to all concerned.

POWER OF INDUSTRIAL BOARD TO GRANT MODIFICATIONS

After careful consideration the Commission recommends the enactment of the following section of the Labor Law to meet these views:

> "§ 30. Variations. If there shall be practical difficulties or unnecessary hardship in carrying out any provision of this chapter, or rule adopted by the industrial board thereunder, affecting the construction or alteration of buildings, the installation of fixtures and apparatus, or the safeguarding of machinery and prevention of accidents, the industrial board shall have power to make a variation from such requirements if the spirit of the provision or rule shall be observed and public safety secured. Any person affected by such provision or rule, or his agent, may petition the board for such variation stating the grounds therefor. The board shall fix a day within a reasonable time for a hearing on such petition and give notice thereof to the petitioner who may appear in person or by agent or attorney. If the board shall permit such variation it shall be in the form of a resolution and such variation shall apply to all buildings, installations or conditions where the facts are substantially the same as those stated in the petition. Such resolution shall contain a description of the conditions under which such variation shall be permitted and shall be published in the manner provided for rules of the board. A record of all such variations shall be kept in the office of the industrial board and shall be properly indexed under section numbers of the law or industrial code to which each variation applies, and shall be open to public inspection during business hours."

Some question arose as to whether the variation should be limited to the particular case for which it was requested, or extended to cover buildings, situations or conditions where the facts

were substantially the same as those stated in the petition presented to the board for a variation. The Commission was of the opinion that it would be advisable to have the modifications, so far as practicable, general in their application as are the rules of the industrial board.

We believe that the foregoing statute does not involve a delegation of legislative powers, and this view is sustained by the opinion of the United States Supreme Court in a recent case. (Inter-Mountain Rate Cases, 234 U. S., 58 Law Ed., page 1408.)

POWER OF INDUSTRIAL BOARD TO SPECIFY MATERIALS AND FORMS OF CONSTRUCTION OTHER THAN THOSE MENTIONED IN THE LAW

In line with the determination to make the law flexible in its application, and to meet new conditions as they might arise, the Commission recommends that the industrial board be given power to specify materials and forms of construction that are equivalent to those prescribed in the law. We recommend that a new section be added to the law as follows:

> "§ 239. Industrial board to specify materials and forms of construction. Whenever in this title specific materials or forms of construction are required, others equivalent thereto may be accepted by the industrial board if they shall have passed the standard tests prescribed by the board."

SMOKING IN FACTORIES

The power of the industrial board was extended also to meet the problem of smoking in factories. The old law contained a general prohibition of smoking in factories. We recommend the amendment of that section of the Labor Law to read as follows:

> "§ 263. No person shall smoke in any factory, but the industrial board in its rules may permit smoking in protected portions of a factory or in special classes of occupancies, where in its opinion the safety of the employees would not be endangered thereby."

SUMMARY POWERS OF COMMISSIONER OF LABOR INCREASED

We recommend an increase in the summary powers of the Commissioner to enforce the provisions of the Labor Law where matters involving the safety to lives of employees and occupants of buildings are involved, and that the following section be added to the Labor Law:

> "§ 406. Summary action to prevent violations. 1. The commissioner may require any building, structure, enclosure or place of employment to be vacated if in his opinion it is, because of a violation of any provision of this chapter or of any rules made thereunder, so unsafe or unsanitary as to endanger life or health.
>
> 2. In case any lawful order issued by the commissioner is not complied with, or the commissioner certifies in writing that an emergency exists requiring such action, he may issue an order as provided in subdivision one of this section. Such order shall be addressed and served as provided in section forty-six. Whenever any order to vacate served as aforesaid shall not have been complied with, within the time designated therein, the commissioner may apply to any judge of the supreme court, who, upon such notice as he may fix, may grant an order directing the commissioner to vacate such building or premises, or so much thereof as said commissioner may deem necessary, and prohibiting and enjoining all persons from using or occupying the same for any purpose until such measures are taken as may be required by such order."

PENALTY PROVISIONS

A revised form of section 1275 of the Penal Law under which practically all prosecutions are now brought, has been substituted for the many criminal penalties which are now scattered through the Labor Law and the Penal Law. So also a section containing general provisions as to civil penalties has been substituted for the several civil penalty provisions that are now found in different parts of the Labor Law. (See § 405 of revised recodification.)

FIRE HAZARD IN MERCANTILE ESTABLISHMENTS

The Commission did not deem it advisable at this time to recommend specific requirements in the law for the construction and alteration of mercantile establishments and mercantile buildings, or for fire escapes and exit facilities therein. We believe that that is a matter that should be left with the industrial board and that the board should have power to adopt rules on the subject to meet the different conditions which are presented. We therefore recommend the enactment of the following section of the Labor Law to deal with this subject:

> "§ 350. Fire hazard. Every mercantile establishment and mercantile building shall be provided with adequate exit facilities and shall be so constructed, equipped, arranged and maintained as to afford safety to employees and patrons in case of fire. The industrial board shall in its rules prescribe detailed requirements for protection from the fire hazard in existing mercantile establishments and mercantile buildings and in those to be erected in the future."

We also recommend the enactment of a law prohibiting smoking in mercantile establishments along the lines hereinbefore indicated for factories.

OTHER CHANGES IN THE LABOR LAW

We have enumerated above the principal changes that have been made in the law. We have not set forth the detailed changes that have been made. They are clearly indicated in the bill which is presented herewith in Appendix I.

SUMMARY

The bill recodifying the Labor Law rearranges the sections of the old law in logical order, removes ambiguities and contradictions that have crept in because of repeated amendments to the law, and makes the law understandable to the employers and employees who are affected by its provisions.

The change in the definition of a factory, factory building and

mercantile establishment, and the power given to the industrial board to vary or modify specific requirements of the law so as to secure the safety of those affected and at the same time not work unnecessary hardship, will, we believe, result in making the law fair and reasonable in its application and at the same time effectively secure its purpose, which is the protection of the lives, health and safety of the workers in industrial establishments of the State.

III. CONSOLIDATION OF DEPARTMENTS HAVING JURISDICTION OVER BUILDINGS IN NEW YORK CITY

Immediately after the Commission was created in 1911, we issued a list of questions concerning the methods for improving conditions under which manufacturing was carried on in cities of the first and second class of the State. The questionaire, containing about one hundred questions and the replies that were received thereto, are set forth in detail in the first volume of the Commission's preliminary report to the Legislature, pages 586 *et seq.* Among the questions therein presented for consideration, were the following:

> Should there be a Department of Labor for the city of New York and one for the rest of the State?
>
> Should there be one or three commissioners at the head of each of those departments?
>
> Should there be a bureau of inspection established whose function it shall be to inspect factories and manufacturing establishments and report existing conditions to the different departments charged with the duty of enforcing the provisions of the law on the subject; the Bureau of Inspection to report the facts to the responsible department, the latter to secure compliance with the provisions of the law applicable to the condition reported?
>
> Should there be a new department established for the city of New York to have exclusive jurisdiction over all factories and manufacturing establishments other than those carried on in tenement houses (the new department to possess all the powers which are now held by the State Labor Department in the city of New York, the Building, Fire and Health Departments of the city with reference to factories and manufacturing establishments)?
>
> What bureaus should be established in such new departments?

What suggestions have you tending to lessen or do away with duplication of inspections in the city of New York by various city and State departments?

What other suggestions have you which would tend to centralize the authority and responsibility for the enforcement of the laws relating to factories and manufacturing establishments in the city of New York?

In response to this questionaire we received various written statements and we also held a number of public hearings at which the subject was discussed. Practically all those who appeared before the Commission in person, or who submitted written statements were opposed to the establishment of a bureau of inspection or the establishment of a new department for the city of New York as suggested by the foregoing questions. It was the concensus of opinion that it was unnecessary to consolidate departments and that there was practically no duplication of inspection. The Commission accordingly made no recommendation on the subject.

When the Commission was continued in 1914, complaints were received, in the main from owners of buildings, that there was over-inspection of buildings in New York City by different city and State departments, and that there was frequent duplication of work and at times a conflict in the orders issued by the various departments.

The Commission investigated these complaints and heard witnesses on the subject. No real cases of conflicting orders were brought to our attention, although owners of buildings and any others that might be interested were frequently invited to present such cases to the Commission. We did find, however, that a number of city and State departments inspected the same building for different purposes under different laws, and it became apparent that in the interests of efficiency and economy in the administration of the law, the functions of some of these departments might well be consolidated. The following city and state departments now exercise jurisdiction over buildings in New York City, make inspections and issue orders:

State Department

Department of Labor.

City Departments

Tenement House Department.
Bureau of Fire Prevention of the Fire Department.
Division of Boiler Inspection of the Police Department.
Health Department.
Department of Water Supply, Gas and Electricity.
Commissioner of Licenses.

Borough Departments

Bureau of Buildings.
Department of Highways.

ISSUANCE OF TENTATIVE PLAN AND BILL

The Commission held a public hearing on the subject at which all those that appeared urged that the functions of existing city and State departments having jurisdiction over buildings in New York City, particularly in so far as they related to new construction and structural changes in existing buildings, be centralized in one department of buildings. The Commission accordingly prepared a tentative plan and bill on the subject, copies of which are set forth in Appendix III of this report. The tentative bill may be briefly summarized as follows:

> "Create a new department for the city of New York to be known as the department of buildings, the head of which shall be the commissioner of buildings who shall be appointed by the mayor. The jurisdiction of this department shall extend over the entire city.
>
> "The department of buildings shall have sole and exclusive jurisdiction over the construction and alteration of all buildings and any structural changes therein (including factories and mercantile establishments). There shall also be concentrated in this new department, so far as practicable, jurisdiction over matters relating to the proper maintenance of these buildings.

"This will involve the consolidation of the following departments and bureaus and the transfer of their entire jurisdiction to the new department of buildings.

"1. The bureau of buildings of each borough.

"2. Bureau of fire prevention of the fire department.

"3. Division of boiler inspection of the police department.

"There shall also be transferred to this new department of buildings the jurisdiction now exercised by different city and state departments as follows:

"4. State department of labor — in to far as it relates to the construction and alteration of factory buildings and mercantile establishments and any structural changes therein.

"5. Health department of New York City — in so far as it relates to structural changes in bakeries and food product manufactories.

"6. Tenement house department — in so far as it relates to construction of new buildings.

"7. Department of water supply, gas and electricity — in so far as it relates to the inspection of electrical wiring and equipment in buildings."

The advisability of transferring some of the jurisdiction over buildings, exercised by the Commissioner of Licenses and the jurisdiction exercised by the borough president for the granting of vault permits, was left for further consideration.

The bill provided further, for the creation of a Board of Building Standards and Appeals, which was to make rules and regulations for carrying into effect the provisions of law as to which the Building Department was given jurisdiction, and to hear appeals from orders issued by the Commissioner of Buildings.

The Commission also suggested the advisability of deferring the transfer of the jurisdiction of some departments, e. g., the Bureau of Fire Prevention, until a later date, when the new department would be completely organized and ready to take over the work.

Numerous conferences and public meetings were held by real estate and civic organizations to discuss plans for the consolida-

tion of the inspection departments of the city and the State Labor Department. A committee of citizens was appointed by the mayor of New York City to consider the various suggestions made, and this committee, after several public hearings, presented to the Commission its conclusions as follows:

> "It is proposed to recommend a simple enabling act either in the form of an amendment to the charter or a new statute, empowering the board of estimate and apportionment to combine before January 1, 1916 the various bureaus of various city departments that have to do with inspection of buildings, to regroup them in departments different from ones they are now in, to abolish some if necessary, to give to the newly combined or newly established bureaus the same powers and responsibilities that now attach to existing bureaus. In a word, to regroup and readjust all existing functions of the city or borough departments with regard to building inspection, for the purpose of simplifying building inspection.
>
> The basic idea underlying this suggestion is that the problem is an administrative one, not a legislative one, that the changes necessary cannot be made all at once, without serious danger of confusion and clash and loss of efficiency to the city government and hardship to real estate interests; that any bill that is drawn now and attempts to go into minute detail is bound to cause infinite trouble.
>
> It is anticipated that presumably if this scheme is adopted that the board of estimate would proceed through a standing committee of its own members who would make the most careful examination into every change that would be proposed before adopting it.
>
> The bill should be a very simple one, and could be put into one or two pages of print. It should, of course, also give the board power to place in the control of the city departments the functions now exercised by the State Department of Labor in so far as they relate to building inspection or the construction or alteration of buildings.

The bill should safeguard existing rights and causes of action, and should make it clear beyond any peradventure of doubt that the powers conferred upon the board of estimate supersede all powers hitherto conferred upon various city departments, whether contained in the charter or in any statute."

It was reported that the mayor's committee was unanimous in supporting every feature of the plan as above outlined, except the empowering of the board of estimate and apportionment to transfer to a city department the jurisdiction within the city of New York of the State Labor Department over structural features of factory buildings, as to which there was one vote of the six members of the committee in opposition.

The Commission recognizes as the result of its investigations:

First. That a reorganization of the inspection services of the various departments of New York City and its boroughs, and a consolidation of some of their functions, is desirable;

Second. That in accomplishing this consolidation, nothing should be done that would impair the effectiveness of the present regulation of the construction and use of buildings, which has been greatly strengthened since the Triangle Waist Factory fire of 1911;

Third. That the consolidation should be accomplished in such manner as to reduce the expense to the city of the inspection departments;

Fourth. That the consolidation of the inspection departments is an administrative rather than a legislative problem, and should be accomplished by such gradual method as would prevent even temporary disorganization of the inspection departments affected.

The Commission believes that the consolidation should be under a city department rather than under a separate department in each of the five boroughs. The latter plan, by decentralizing the inspection work of the city, would multiply supervision

costs and in other ways greatly increase the expense as well as reduce the efficiency of enforcement of regulations designed to protect the lives and health of occupants of buildings.

As above stated, however, the problem of reorganizing and consolidating the inspection departments is an administrative rather than a legislative matter. The Commission believes that it falls within the principle of home rule and that sufficient power to deal adequately with the subject should be conferred upon the local authorities by a proper enabling act. The Commission, therefore, recommends the adoption of the plan suggested by the mayor's committee, so far as it provides for the consolidation by the city board of estimate and apportionment of the inspection departments of the city and its boroughs.

The Commission believes that the city board of estimate and apportionment should be given an opportunity to solve the problem as affecting the city and borough departments and to determine what form of city department shall be provided for carrying on the inspection work, before changes are made in the law regarding the inspection of structural conditions in factory buildings.

After the city board of estimate and apportionment has solved the problem as affecting inspection departments of the city and its boroughs, and has determined the form of department that shall be charged with the duty of inspecting buildings in the city, it will be time to take up the question of what transfer, if any, shall be made of the functions of the State Labor Department with reference to structural conditions in factory buildings and mercantile establishments.

CONCLUSION

With this report, the work assigned to the Commission is concluded. The Commission has been in existence for a little over three years. During that time there has been enacted on our recommendation what practically amounts to a new labor law for the State of New York. We have endeavored to be fair and reasonable and at the same time discharge the trust reposed in us, that is, to recommend legislation for the better protection of the lives and health of the men, women and children employed in the industries of the State — legislation that would protect the workers not only against the perils of fire, but against the deadly every-day incidents of industrial toil, such as insanitary conditions, excessive hours, accidents and industrial poisons.

Everyone interested was given ample opportunity to be heard before the Commission, or to express his views in writing on the subjects before it for consideration. We sought in every instance the advice and counsel of those who would be most affected by any changes we might recommend, and formed advisory committees composed of widely diversified interests to assist us in our work. Our proposals were given wide publicity long before they were presented to the Legislature and were issued in tentative form for suggestions and criticisms.

With the assistance of many public spirited citizens and officials and of the press throughout the State, much has been accomplished in the way of better legislation.

We should prefer, however, to have our work judged not by the number or character of the laws that were passed upon our recommendation, but by the educational value of the investigations conducted by us, and the impetus to the voluntary improvement of working conditions given by the disclosure of evils in the course of our work.

From the outset the Commission laid emphasis on the necessity for a fair and complete presentation of the facts as to what

were the actual conditions of employment. These facts were given the widest publicity, and in consequence, there was a practical unanimity of opinion, in which employers all over the State joined, that conditions had to be improved in the interests of the public welfare.

It was early recognized that better working conditions produce increased efficiency, the lessening of mortality and morbidity of workers and greater economy in manufacturing and producing. This insures increased prosperity to industry and means great advantage to the people of the State as a whole, including the employers and manufacturers.

The department of labor has been completely reorganized. It has been given facilities commensurate with the great tasks imposed upon it, but despite its great correctional powers the Commission believes that the greatest and highest functions of the department of labor is to educate rather than to exercise the police power, and it earnestly commends to the department that it bring about a closer relationship between labor and its employer to the end that conditions be improved, not only by enactment of laws or the rigid technical enforcement of statutes, but by showing that a greater care of labor induces a greater interest in the business of the employer and a corresponding profit both to the employer and the employee alike. It has been clearly demonstrated by the evidence laid before the Commission that improvement of the conditions under which the worker lives and labors means greater profit to the employer. Improvement of working conditions is real economy.

If the labor department can succeed in bringing employers and employees into closer co-operation and in this manner continually raise the industrial standards through voluntary action, there will be a fairer and more effective administration of the law and the human resources of the State more adequately conserved.

It is with great regret that we find it necessary to announce the death of our colleague, Mr. Simon Brentano, which occurred at midnight, February 14, 1915, after the foregoing report had been written and had met with the approval of the Commission. Mr. Brentano was appointed a member of this Commission as a

representative of the public, at the time of its creation; and throughout its activities he was an interested, helpful coworker, whose great experience, broad philanthropy and sound judgment, recognized by all who knew him, made his counsel sought for and invaluable. Even during his last severe illness he retained his active interest in the Commission's work. This report had been submitted for Mr. Brentano's signature at his request, but death stayed his hand even while he was reading it. Only a few days prior to his death, however, Mr. Brentano wrote that he was fully in accord with the Commission's findings and recommendations. We submit this report, therefore, as having the approval of our lamented colleague, and we desire to express here not only our own sense of loss in the passing of one we knew and honored, but also the loss to our State of a man who upheld the highest ideals in business and in private life, and who was in the truest sense a good citizen and public servant.

All of which is respectfully submitted, this 15th day of February, 1915.

ROBERT F. WAGNER,
Chairman.
ALFRED E. SMITH,
Vice-Chairman.
CHARLES M. HAMILTON,
CYRUS W. PHILLIPS,
SAMUEL GOMPERS,
EDWARD D. JACKSON,
MARY E. DREIER,
Commission.
FRANK A. TIERNEY,
Secretary.

ABRAM I. ELKUS,
BERNARD L. SHIENTAG,
Counsel.

APPRECIATION OF COMMISSION

The Commission desires to express its appreciation of the able and conscientious service rendered to it by all those who had been associated with it in its work.

A special word of appreciation is due to the Hon. Abram I. Elkus, Chief Counsel of the Commission since its inception. Mr. Elkus, for over three years, has served as Chief Counsel without receiving any compensation. His services, which were invaluable to the Commission, were given without stint and often at personal sacrifice. We make mention of this in our final report so that the people of the State may be informed of the great and disinterested public service that Mr. Elkus has rendered.

DISSENTING REPORT BY LAURENCE M. D. McGUIRE

To the Legislature of the State of New York:

A majority of the New York State Factory Investigating Commission presented to your honorable body on February 15, 1915, a report of their work for your consideration together with a bill "recodifying the labor law."

As a member of the Commission I carefully studied the reports submitted and while in the main I agree that the report fairly states the work done by the Commission I can not concur in all the conclusions and I more particularly dissent to the recommendations as to recodifying the labor law and as to the consolidation of various inspection departments in the city of New York.

It may be that my close connection with business enables me to see matters affecting labor and capital in a different light than that in which my associates view them. I feel, personally, that sufficient consideration has not been given the serious disturbance in all branches of legitimate business which has resulted through excessive governmental interference and regulation. It has also seemed to me that, apparently my colleagues believed that the end justified the means. The safety, convenience and comfort of labor, desirable it is true, appeared to them to be absolutely essential regardless of whether the methods employed to obtain such safety, convenience and comfort would seriously effect business and possibly make it unproductive, discourage investment, and lead to the ultimate unemployment of labor.

There are many who believe that opportunity can no longer be grasped by the laboring man and that his condition is a serious one. These people believe that the great combinations of capital have made it impossible for the laboring man to rise from the ranks and become an employer and to them there is, apparently, an impassable gulf between the employer and the laborer. My view point and belief are different. I believe that labor has as many opportunities to rise today as it ever had and that the

future of this country holds just as much promise for the individual as it ever did.

It has seemed to me that the very objects for which the Commission is striving will be defeated by the laws they seek to enact. If unnecessary and burdensome regulations are placed upon the employer they will ultimately affect injuriously the laborer.

It is, therefore, my opinion that while the rights of labor should be safeguarded to the utmost it is important that nothing should be done to discourage the employer or to impair seriously his investment, for this would cause ultimate unemployment and consequent hardship and distress.

As an instance the enactment of rigid and drastic regulation as the result of what is known as the Asch fire in New York city, had the effect of seriously impeding building operations in that community. While it cannot be positively shown that the measures enacted as a result of the agitation which followed this fire, excellent though these measures may be, have resulted in saving a single life, their rigid enforcement has seriously discouraged building operations in the city.

Last year's record and that of the year previous were lower than the record of the year of the Asch fire. It is true that part of this loss can be ascribed to the general business depression, yet, the percentage of loss in Greater New York was, I believe, larger than in other cities throughout the country where the same business depression existed, but where the investor and builder were not harrassed and interfered with by unnecessary regulations. In consequence of this slack in building operations thousands of workmen are without employment and it would be difficult to accurately estimate the privation and hardship which has resulted therefrom.

That this serious state of affairs does not deter the professional agitator for more regulation is shown by the following letter recently sent broadcast throughout the State:

COMMITTEE ON SAFETY OF THE CITY OF NEW YORK

A VOLUNTARY ORGANIZATION OF CITIZENS

30 East Forty-second Street

Telephone Murray Hill 4302

January 14, 1915

My dear .....—A cry of fire fills the room. Frantic with fear, fighting in the midst of a panic-ridden mob for air, for breath, for escape — flames leaping higher, the exits blocked, the screaming crowd grows helpless.

A frail girl, with clothing torn, eyes staring, choking, coughing, gasping, blinded by smoke, rushing wildly back and forth, tries to decide in the half second that remains whether to leap from the window to almost certain death on the sidewalk below, or with one more breath of the scorching air, fall suffocated to the floor with the flames ready to do their fatal work on the young body.

This is what it means to be caught in a factory fire.

The Triangle fire in which 147 perished and twice as many were injured; the Newark fire which destroyed 28 young girls and injured as many more; the Binghamton fire where 38 workers lost their lives and twice as many were injured by jumping, bear witness to the reality of this kind of disaster.

Two hundred and sixty thousand working girls and 420,000 working men face this danger every day, when they go to their work in the factories in New York city.

The Committee on Safety educates the public, the employers and the workers, in regard to these dangers and their prevention, promotes legislation to make impossible such disasters, and secures the proper and adequate enforcement of the laws.

A contribution of ten dollars sent immediately will help to assure an effective legislative campaign this winter to protect the workers against the fire hazard.

Sincerely yours,

(Signed) FRANCES PERKINS,

Executive Secretary.

The signer and presumably the author of this letter was retained by the Commission as an investigator of mercantile establishments. The harm done by this constant agitation can not be overestimated.

In reference to that portion of the report which refers to the consolidation of building inspection in New York city I wish to state that there have been many meetings of real estate and civic organizations held to discuss the advisability of such a consolidation and that it was practically the opinion of all, with but one or two exceptions, that such consolidation should be along borough lines.

The Building Bureaus of the several boroughs are managed by capable heads with practical experience and their employees, under the charter must have had practical experience. It has, therefore, seemed to the associations previously referred to and real estate men and builders generally, that it would be better to transfer these jurisdictions and inspections to the bureaus already fully equipped to handle them rather than to create a new city bureau or to allow the Board of Estimate to rearrange city commissions.

In fact, I cannot understand why the Commission, after hearing the testimony, reported in favor of the plan submitted by the mayor's committee. This latter plan is so indefinite and really gives such little relief to a city in dire necessity that it should not be considered.

The bill known as the Lockwood bill should be adopted, for this alone provides the relief imperatively demanded by building and real estate interests.

My objections to the report of my colleagues summarized are as follows:

1. That it is not a recodification, but is a revision of the labor law.

2. That the proposed additions to the law are drastic and in many instances unnecessary and if enacted business and real property interests will be seriously effected.

3. That the proposed bill does not give sufficient consideration to the request and suggestions of witnesses who testified before the Commission in relation to the requirements for factories and mercantile establishments.

4. That the enlarging of the definition of the term "factory" so that it will include almost every building in the State except

those used exclusively for dwelling purposes is contrary to the purpose for which the law was intended.

5. The attempt to relieve conditions in reference to structural changes in buildings, by stating that provisions of the law will not apply where only four persons are employed in manufacturing, is frustrated by the clause which gives to the Industrial Board power to order any changes which it may require, regardless of the number of people employed.

This change would make it impossible for an owner to know from one day to another what the Industrial Board may demand.

6. That the bill allows the construction and alteration provisions of the law to be varied by a board, whose members are admittedly not experts in building construction.

7. That the new provision of the bill to make "the law flexible in its application" gives the same board the right to specify building material and forms of construction of buildings. It is unwise to vest this enormous responsibility in persons who are not experts.

In New York city this work is done by building experts in the employ of the city and their work is reviewable by a Board of Examiners, composed of experts on building construction.

The transfer of this jurisdiction I believe would be a serious mistake.

8. That the provision which makes "an agent in charge of property" criminally liable for failing to do something which he may be unauthorized to do is unfair, and I believe unconstitutional.

9. That the provision requiring the employment of not less than 125 inspectors regardless of the work to be done is not in accord with business principles of economy.

10. That the bill should exempt cities of the first class, which maintain building departments or bureaus, from its provisions in all matters which relate to the construction or alteration of buildings. This exemption might be extended to other cities maintaining efficient building bureaus or departments. In New York city there are building bureaus in each borough, the heads of which are required to be builders or architects of at least ten years' experience and the employees in these bureaus are experts in building construction. The efficiency of the bureaus and the capability of the employees are conceded facts.

The requirements in New York city are of high standard. Health and life are adequately safeguarded. It would seem to be

unfair to take away from New York city and other cities of the first class the jurisdiction over the construction of its own buildings and place it in the State Department which is not as well equipped to pass upon work involving vast sums of money yearly.

While the bill gives the labor law entire jurisdiction over the construction and alteration of factory buildings, it empowers the labor commissioner to demand that the local building bureaus examine all plans filed in the labor department, and inspect and report to it on all factory buildings constructed as to the requirements of all laws and ordinances, including the labor law.

This would impose upon the local building bureaus the burden of doing all the work and assuming responsibility, but still leave the control within the labor department.

It would seem unnecessary to maintain a building bureau within a labor department in cities of the first class to duplicate work now being done by the local bureaus.

A large saving to both the State and cities could be effected by giving to the local building bureaus jurisdiction over building construction. It would not only make a saving but would tend to stop the much complained of over inspection and conflict.

The advantages which would accrue to the citizens and to the State at large if home rule prevailed as to building construction seems to me to be too apparent to require further discussion. That the present law has done great injury and damage to property rights, which the proposed new bill will not remedy is a fact generally admitted by all who have reason or occasion to follow the operation of the law since its enactment.

My opinion is that the recodification bill as presented will prove impracticable, unnecessarily increase the financial burdens of the State, will harass the employer and employee and cause the owners of real estate to spend unnecessarily vast sums of money.

In my opinion the Commission in its recommendations and, in fact, in its entire work has, to some extent at least, proceeded upon a wrong theory. They have allowed themselves to believe that laborers are a distinct class and must be legislated for, protected and regulated, and that labor as a class cannot prosper and flourish unless the strong arm of the State is stretched out to care for it and protect it.

To my mind this is all wrong. We live in a representative democracy and all are laborers. The employer of today is the laborer of yesterday. Those who are drones are so few as not to

be reckoned with and the sole duty of the State is to safeguard the individual so that he can pursue his daily legitimate avocation without let or hindrance.

I believe that this is the sole function of government and when this is done and the individual member of the State is free to pursue his daily work and is safeguarded against those who would take from him his rights it has done all that it ought to do and that the thousands of statutes passed upon the theory that there must be governmental regulation and control with the community divided into classes and each class given protection against the other is all wrong and in the end will result in great injury.

I believe that the restrictive and regulative legislation that has been enacted at Washington and in all the states has been less in response to popular demand than as a result of self-seeking agitators who have sought by stirring up strife between the employer and employed to further their own ends.

The experience of the past proves conclusively that the best government is the least possible government, that the unfettered initiative of the individual is the force that makes a country great and that this initiative should never be bound except where it becomes a menace to the liberty and initiative of others.

Those laws that are said to be progressive are really reactionary and belong rather to the days of so-called beneficent despotism than to the era of representative government.

In conclusion I believe that this matter can be safely left to the wisdom of the Legislature and that as a result of your deliberations wise and beneficent laws will be enacted.

LAURENCE M. D. McGUIRE.

REPLY TO DISSENTING REPORT OF LAURENCE M. D. McGUIRE

The Commission's term of office expired on February 15, 1915, and on that day, pursuant to statute, it submitted its final report to the Legislature. A copy of the dissenting report of Mr. Laurence M. D. McGuire was not submitted to us until March 5, 1915. It contains various objections which were not made by Mr. McGuire at any time before the Commission submitted its report to the Legislature. Hence, it is proper and necessary to resort to the unusual method of replying to a dissenting report, in order that the position of the Commission may be fully understood and certain misconceptions apt to arise from a reading of the dissenting report, be cleared up.

The Commission was created in 1911 after the Triangle Waist Co. fire in New York City, and, prior to its final report, submitted preliminary and intermediate reports to the Legislature in 1912, 1913 and 1914. These reports were accompanied by a series of bills dealing with safety and sanitation in factories and mercantile establishments, most of which were enacted into law.

In 1914 the Commission was continued to complete the recodification of the Labor Law and an investigation of wages that had been commenced the previous year.

Mr. McGuire, the dissenting member, was not appointed a member of the Commission until July, 1914, when practically all of the work of investigation of the Commission had been completed. Mr. McGuire was then appointed by the Governor to succeed Mr. Robert E. Dowling, who resigned in order to devote all of his time to the work of the Workmen's Compensation Commission, of which he became chairman. At the time of his appointment Mr. McGuire was and still is president of the Real Estate Board of New York, as association of owners and representatives of real estate in the city of New York.

With this preliminary statement, we shall proceed to a brief discussion of the objections raised in the dissenting report.

From that report it might appear that the dissenting commissioner did not approve of the report of the Commission on the subject of wages and wage legislation. We are certain that Mr. McGuire did not intend this erroneous impression to be conveyed, for at the final meeting of the Commission and prior thereto he announced his approval of the findings of the Commission and its recommendations on that subject, and subsequently made a written declaration to that effect.

We have no comment to make here concerning the dissent from that section of the report dealing with the consolidation of departments having jurisdiction over buildings in the city of New York. The reasons for the Commission's adoption of the recommendations of the Mayor's committee and its advocacy of a centralized City Department of Buildings, as opposed to separate departments in each borough, are fully set forth in our report to the Legislature.

We note the dissatisfaction expressed by Mr. McGuire at the trend of legislation all over the country, Federal and State, having as its aim the betterment of working conditions. We have no desire to dwell on these views further than to express the regret that Mr. McGuire was not a member of the Commission when it conducted its extensive and comprehensive investigations into working conditions in industrial establishments in this State, based in part upon personal inspections of factories and mercantile establishments by members of the Commission. His attitude on these questions might, in that event, have been a little different.

It would serve no purpose to indulge in any discussion of the generalities expressed by Mr. McGuire concerning the relationship between labor and capital and the functions of government in respect thereto, most of which are not pertinent to the work or recommendations of the Commission.

Mr. McGuire in his report says: "It may be that my close connection with business enables me to see matters affecting labor and capital in a different light than that in which my associates view them." From this the impression might be gathered that business interests were not represented on the Commission. The fact is, however, that all of the laws recommended by the Com-

mission received the endorsement and were approved by Robert E. Dowling, the president of the City Investing Company, one of the largest and most prominent real estate men and contractors in the city of New York; the late Simon Brentano, a well-known merchant and publisher of the city; and Charles M. Hamilton, now a Congressman and identified with large business interests all over the country. The business and real estate interests were therefore represented on the Commission and joined in the recommendations which Mr. McGuire now finds fault with.

In another section of his report Mr. McGuire ascribes the laws recommended by the Commission and similar laws enacted all over the country to what he terms " agitators," and fears for their effect upon the welfare of workers in industrial establishments. Here again the fact should not be overlooked that the interests of labor were represented on the Commission by Samuel Gompers, the president of the American Federation of Labor; Mary E. Dreier, president of the Women's Trade Union League; and Edward D. Jackson, of Buffalo.

The most serious exception that we take to the dissenting report is to that portion of it which deals with recodification of the Labor Law. At the final meeting of the Commission and prior thereto, Mr. McGuire interposed no objections to the recommendations of the Commission on this subject although these recommendations had been submitted in the form of a tentative bill some time prior thereto, and had been discussed at several meetings at which Mr. McGuire was present. Indeed, we have been informed by counsel that after reading the Commission's report, Mr. McGuire stated that he did not object to the section dealing with the recodification, because it was a recodification and not the enactment of any new laws.

In making this statement, we do not suggest that Mr. McGuire was not at liberty to change his views on this subject. We refer to it simply as showing that the Commission had no opportunity to discuss and consider the objections that Mr. McGuire now makes and to deal with them in its report to the Legislature.

The dissenting report on this subject contains many statements which are misleading, unintentionally so to be sure, but at the same time they do not fairly and correctly set forth the scope and contents of the recodification bill recommended by the Commission.

Mr. McGuire's objections to this bill are in themselves contradictory. First he objects because the bill is not a recodification of the Labor Law, but a revision (meaning presumably that the bill contains changes of substance). Then he objects because a number of important changes of substance were not made.

The bill presented by the Commission is in fact a recodification of the Labor Law. There are no added requirements except that, pursuant to a widespread demand from business men and real estate interests all over the State, the powers of the Industrial Board have been increased and the law made more flexible in its application. The Industrial Board, under proper circumstances, was given the power to vary the requirements of the law in cases where its application involved difficulties or unnecessary hardship.

Of course, where experience had shown that certain mandatory requirements were unfair or unreasonable, they were eliminated. Changes were also made where the provisions of existing law were found to be inconsistent and ambiguous, but that is involved in every work of recodification. It should be emphasized that whatever change has been made in the Labor Law has been by way of minimizing and making less burdensome, but not in any way adding to its requirements.

The statement that Mr. McGuire makes "That the proposed additions to the law are drastic and in many instances unnecessary and if enacted real estate and business interests will be seriously affected," is not supported by the facts. Nor does Mr. McGuire himself specify what additional requirements are made by the recodification.

The next objection of any consequence that Mr. McGuire makes is objection 4, as follows:

> "That the enlarging of the definition of the term 'factory' so that it will include almost every building in the state excepting those used exclusively for dwelling purposes, is contrary to the purpose for which the laws was intended."

We shall consider this objection in connection with objection 5, which relates to the definition of factory.

Here again, the recommendations of the Commission are not correctly set forth. The recodification bill presented by the Com-

mission does not enlarge the definition of factory and factory building. The recodification limits the broad scope of those definitions. For example, under the present law the term "factory" is defined as follows:

> "The term 'factory' includes any mill, workshop, or other manufacturing or business establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at labor."

The change in the definition of a factory recommended by the Commission is as follows:

> "The term 'factory' includes any mill, workshop, or other manufacturing establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at manufacturing, including making, altering, repairing, finishing, bottling, canning, cleaning or laundering any article or thing, in whole or in part."

In other words, under the law recommended by the Commission, only a manufacturing establishment is to be deemed a factory, whereas under the present law any business establishment where one or more persons are employed at any kind of labor might conceivably come within the scope of the definition. The Commission went further, however, and recommended the following provision:

> "The provisions of this chapter affecting structural changes and alterations and the installation of fixtures and apparatus other than for the safeguarding of machinery shall not apply to factories or to any building, sheds, structures or other places used for or in connection therewith where less than five perons are employed at manufacturing except as prescribed by the industrial board in its rules."

It is not correct to say either that the recommendations of the Commission enlarged the definition of factory building. The fact is that that definition is limited in the recodification of the Labor Law bill. The present law defines the term "factory building" as follows:

> "The term 'factory building' means any building, shed or structure which, or any part of which, is occupied by or used for a factory."

The law recommended by the Commission adds the following qualification:

> "and in which at least one-tenth of all the persons employed in the building are engaged in work for a factory but shall not include a building used exclusively for dwelling purposes above the first story."

Surely, this does not enlarge the old definition of a factory building. The last clause, to which Mr. McGuire seems to take exception, was added at the special request of owners of tenement houses in New York City having factories on the first story only, to exempt such buildings from the requirements of the Factory Law.

The power granted to the Industrial Board to specify additional materials and forms of construction other than those mentioned in the statute, to which Mr. McGuire now objects, was conferred pursuant to unanimous demand of business men throughout the State, because of the fact that new materials as good as those specified in the law are constantly being put upon the market.

Mr. McGuire makes the objection that the recodification has a requirement that there shall be not less than one hundred and twenty-five factory inspectors, regardless of the work to be done. That is not new matter contained in the recodification; that was in the old law. The Commission has not enlarged it in the recodification in any way. Besides, it should be borne in mind that this applies to a State department and that the Legislature is at all times free, because of its control over appropriations, to reduce the number of inspectors in any way it determines to be advisable.

Mr. McGuire also objects because the recodification does not exempt the cities of the first class, New York, Buffalo and Rochester, from the requirements of the Labor Law in so far as they deal with the construction and alteration of factories and factory buildings. Of course, no such change was made because that would have been a most vital change in the substance of the law and

would have repealed some of the important provisions of the Labor Law relating to fire hazard and safety in factory buildings so far as the cities of the first class were concerned. That certainly was not a matter that came within the scope of any recodification bill.

Mr. McGuire makes a number of other minor objections to the recodification but most of these refer to provisions in the present law which have not been changed in any way and if any change is required, it should be by way of the introduction of a new bill.

To sum up, the recodification makes no added requirements to the law. It seeks to make the law more flexible, to give the Industrial Board more power to meet difficult conditions and removes inconsistencies and ambiguities. There is nothing in the law from which it can be said that there would be any increased expense to the State.

We regret to have to go over these matters in this way. If these objections had been presented to us in time, they could have been more adequately dealt with in the report submitted on February 15th.

We regret very much that Mr. McGuire has seen fit in his dissenting report to make statements reflecting on the connection with the work of the commission of Miss Frances Perkins, the secretary of the Committee of Safety of the City of New York. Miss Perkins received no compensation for her services, and Mr. McGuire was informed of that fact. She volunteered to do some work for the Commission in connection with the fire hazard in mercantile establishments, and Mr. McGuire in his report does not indicate that her work in this connection was in any way unsatisfactory or inaccurate. The findings and recommendations of the mercantile fire hazard investigation were submitted to the Engineer of the Commission and were endorsed by experts.

ROBERT F. WAGNER,
ALFRED E. SMITH,
MARY E. DREIER,
SAMUEL GOMPERS,
EDWARD D. JACKSON.

ABRAM I. ELKUS,
BERNARD L. SHIENTAG,
Counsel.

APPENDIX 1

BILLS RECOMMENDED BY COMMISSION

1. Recodification of Labor Law.
2. Wage Commission.
3. Consolidation of Departments Inspecting Buildings in New York City.

1

RECODIFICATION OF LABOR LAW

AN ACT

To amend the labor law, generally, and to amend the education law, the general corporation law and the partnership law, by transferring thereto certain sections of the labor law, and to amend the penal law, in relation to penalties for violations of the provisions of the labor law, and to enact a new chapter of the consolidated laws by transferring thereto the present provisions of the labor law relating to employers' liability.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty-six of the laws of nineteen hundred and nine, entitled "An act relating to labor, constituting chapter thirty-one of the consolidated laws," as amended, is hereby further amended to read as follows:

CHAPTER XXXI OF THE CONSOLIDATED LAWS.

LABOR LAW.

[Article 1. Short title; definitions. (§§ 1-2.)
2. General provisions. (§§ 3-22.)
3. Department of labor. (§§ 40-48.)
3a. Industrial board. (§§ 50-52.)
4. Bureau of inspection. (§§ 53-61.)
5. Bureau of statistics and information. (§§ 62-65.)
6. Factories. (§§ 68-69a.)
7. Tenement-made articles. (§§ 100-106.)
8. Bakeries and confectioneries. (§§ 110-117.)

9. Mines, tunnels and quarries and their inspection. (§§ 119–136.)
10. Bureau of mediation and arbitration. (§§ 140–148.)
11. Bureau of industries and immigration. (§§ 151–156a.)
12. Employment of women and children in mercantile establishments. (§§ 160–173.)
13. Convict-made goods and duties of commissioner of labor relative thereto. (§§ 190–195.)
14. Employer's liability. (§§ 200–212.)
14a. Workmen's compensation in certain dangerous employments. (§§ 215–219g.)
15. Employment of children in street trades. (§§ 220–227.)
16. Laws repealed; when to take effect. (§§ 240–241.)]

Article
1. *Short title; definitions.* (§§ *1–2.*)
2. *The department of labor.* (§§ *10–132.*)
3. *General provisions.* (§§ *140–148.*)
4. *Employment of children and females.* (§§ *160–175.*)
5. *Hours of labor.* (§§ *180–206.*)
6. *Payment of wages.* (§§ *210–212.*)
7. *Public work.* (§§ *215–219.*)
8. *Immigrant lodging-houses.* (§§ *225–228.*)
9. *Building construction and repair work.* (§§ *230–232.*)
10. *Factories.* (§§ *235–286.*)
11. *Bakeries and manufacture of food products.* (§§ *295–303.*)
12. *Tenement-made articles.* (§§ *310–326.*)
13. *Mercantile establishments.* (§§ *335–351.*)
14. *Mines, tunnels and quarries; employment in compressed air.* (§§ *370–397.*)
15. *Violations and penalties.* (§§ *405–406.*)
16. *Laws repealed.* (§§ *410–411.*)

ARTICLE 1.

SHORT TITLE; DEFINITIONS.

Section 1. Short title. This chapter shall be known as the "Labor Law."

§ 2. Definitions. *1. Whenever used in this chapter:*

[Employee.] The term "employee," [when used in this chapter,] means a mechanic, workingman or laborer who works for another for hire.

[Employer.] The term "employer," [when used in this chapter,] means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

[Factory; work for a factory.] The term "factory," [when used in this chapter, shall be construed to] includes any mill, workshop, or other manufacturing [or business] establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at [labor,] *manufacturing including making, altering, repairing, finishing, bottling, canning, cleaning or laundering any article or thing, in whole or in part,* except power houses, generating plants, barns, storage houses, sheds and other structures owned or operated by a public service corporation, other than construction or repair shops, subject to the jurisdiction of the public service commission under the public service commissions law.

The provisions of this chapter affecting structural changes and alterations, and the installation of fixtures and apparatus other than for the safeguarding of machinery shall not apply to factories or to any buildings, sheds, structures or other places used for or in connection therewith where less than five persons are employed at manufacturing except as prescribed by the industrial board in its rules.

[Work shall be deemed to be done for a factory within the meaning of this chapter whenever it is done at any place, upon the work of a factory or upon any of the materials entering into the product of the factory, whether under contract or arrangement with any person in charge of or connected with such factory directly or indirectly through the instrumentality of one or more contractors or other third persons.]

[Factory building.] The term "factory building," [when used in this chapter,] means any building, shed or structure which, or any part of which, is occupied by or used for a factory, *and in which at least one-tenth of all the persons employed in the building are engaged in work for a factory but shall not include a building used exclusively for dwelling purposes above the first story. The provisions of this chapter shall so far as prescribed*

by the industrial board in its rules, also apply to any building, not a factory building within the meaning hereof, any part of which is occupied by or used for a factory.

[Mercantile establishment.] The term "mercantile establishment," [when used in this chapter,] means any place where goods, wares or merchandise are offered for sale. *The provisions of this chapter affecting structural changes and alterations, and the installation of fixtures and apparatus shall not apply to mercantile establishments where less than five persons are employed except as prescribed by the industrial board in its rules.*

The term "mercantile building" means any building, shed or structure, (other than a factory building) which or any part of which is occupied by or used for a mercantile establishment and in which at least twenty per centum of all the persons employed in the building are engaged in work for a mercantile establishment, but shall not include a building used exclusively for dwelling purposes above the first story.

[Tenement house. The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is either rented, leased, let or hired out, to be occupied, or is occupied in whole or in part as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so occupied, and for the purposes of this chapter shall be construed to include any building on the same lot with any such tenement house and which is used for any of the purposes specified in section one hundred of this chapter. Whenever in this chapter authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy under his direction.]

The term "department" means the department of labor of the state of New York.

The term "commissioner" means the commissioner of labor of the state of New York.

The term "rule" means any rule or regulation made by the industrial board and any amendment or repeal thereof.

2. Prohibited employment. Whenever the provisions of this chapter prohibit the employment of a person in certain work or under certain conditions, the employer shall not permit, suffer or allow such person to so work, either with or without compensation, and in a prosecution or action therefor lack of consent or knowledge on the part of the employer shall be no defense.

3. Work for a factory. Work shall be deemed to be done for a factory within the meaning of this chapter whenever it is done at any place, upon the work of a factory or upon any of the materials entering into the product of the factory, whether under contract or arrangement with any person in charge of or connected with such factory directly or indirectly through the instrumentality of one or more contractors or other third persons.

Note.— Subdivision 2 is new and avoids the necessity of numerous repetitions of the words "permitted," "suffered," or "allowed" to work. Subdivision 3 is merely transposed from the earlier part of the section. The definition of tenement house is transferred to § 310.

ARTICLE [3] 2.

THE DEPARTMENT OF LABOR.

[Section 41. Commissioner of labor.
41. Deputy commissioners.
42. Bureaus.
43. Powers.
44. Salaries and expenses.
45. Branch offices.
46. Reports.
47. Old records.
48. Counsel.]

TITLE I. ORGANIZATION.

Section 10. Commissioner of labor.
11. Appointment and removal of subordinate officers and assistants; salaries.
12. Industrial board, appointment and salaries.
13. Seal.
14. Badges.
15. Industrial board, secretary and assistants.
16. Bureaus.
17. Branch offices.
18. Expenses.

TITLE II. INDUSTRIAL BOARD; POWERS AND DUTIES.

Section 25. Meetings of board.
26. Investigations.
27. Enactment of rules.
28. Special rules for dangerous trades.
29. Procedure; industrial code.
30. Variations.

TITLE III. COMMISSIONER OF LABOR; POWERS AND DUTIES.

Section 40. *General duty to enforce labor laws.*
41. *Power to enter and inspect premises.*
42. *Examination of books and papers.*
43. *Inspectors' reports.*
44. *Duty to furnish information and facilitate department's inspections.*
45. *Interference with department prohibited.*
46. *Service of notice.*
47. *Reissuance of revoked licenses.*
48. *Commissioner to keep record and publish bulletin of licenses.*
49. *Blanks to be prepared.*
50. *Annual report.*
51. *Seal.*
52. *Badges.*
53. *Destruction of old records.*
54. *Department's process to be in commissioner's name.*
55. *Oaths and affidavits.*
56. *Hearings and subpoenas.*
57. *Proceedings before deputies or assistants.*
58. *Rules covering hearings.*

TITLE IV. SUBORDINATE OFFICERS; POWERS AND DUTIES.

Section 65. *Powers and duties of deputies.*
66. *Duties of counsel.*

TITLE V. BUREAU OF INSPECTION.

Section 70. *Bureau of inspection; divisions.*
71. *Inspector general.*
72. *Factory inspection districts; chief factory inspectors.*
73. *Supervising factory inspectors.*
74. *Factory inspection subdistricts.*
75. *Special factory inspectors.*
76. *Assignment of factory inspectors.*
77. *Division of mercantile inspection.*
78. *Mercantile inspection districts.*
79. *Special mercantile inspectors.*
80. *Assignment of mercantile inspectors.*
81. *Division of homework inspection.*
82. *Division of industrial hygiene.*
83. *Section of medical inspection.*

TITLE VI. BUREAU OF STATISTICS AND INFORMATION.

Section 90. Bureau of statistics and information; divisions.
91. Powers and duties of divisions.

TITLE VII. BUREAU OF MEDIATION AND ARBITRATION.

Section 95. Bureau of mediation and arbitration.
96. Board of mediation and arbitration.
97. Mediation and investigation.
98. Procedure of board.
99. Arbitration by the board.
100. Decisions of board.
101. Submission of controversies to local arbitrators.
102. Consent; oath; powers of arbitrators.
103. Decisions of arbitrators.

TITLE VIII. BUREAU OF INDUSTRIES AND IMMIGRATION.

Section 110. Bureau of industries and immigration.
111. General powers and duties.

TITLE IX. BUREAU OF EMPLOYMENT.

Section 120. Bureau of employment; offices.
121. Reports of superintendents.
122. Advisory committees.
123. Registration of applicants.
124. Advertising.
125. Service to be free.
126. Juveniles.
127. Cooperation of public employment offices.
128. Labor market bulletin.
129. Information from employment agencies.
130. Notice of strikes or lockouts.
131. Applicants not to be disqualified.
132. Penalties.

TITLE I. ORGANIZATION.

§ [40] *10.* Commissioner of labor. There shall continue to be a department of labor, the head of which shall be the commissioner of labor, who shall be appointed by the governor [by and] with the consent of the senate.[, and who] *The commissioner* shall hold office for [a] *the remainder of the* term of four years beginning on the first day of January of the year

in which he is appointed,[. He] *and* shall receive an annual salary of eight thousand dollars. [He shall appoint and may remove all officers, clerks and other employees in the department of labor except as in this chapter otherwise provided.]

Note:— The last sentence is transferred to the next section.

§ [54] *11.* [Inspectors. Factory inspectors 1.] *Appointment and removal of subordinate officers and assistants; salaries.* [There shall be not less than one hundred and twenty-five factory inspectors, not more than thirty of whom shall be women. Such inspectors shall be appointed by the commissioner of labor and may be removed by him at any time. The inspectors shall be divided into seven grades. Inspectors of the first grade, of whom there shall not be more than ninety-five, shall each receive an annual salary of one thousand two hundred dollars; inspectors of the second grade, of whom there shall be not more than fifty, shall each receive an annual salary of one thousand five hundred dollars; inspectors of the third grade, of whom there shall be not more than twenty-five, shall each receive an annual salary of one thousand eight hundred dollars; inspectors of the fourth grade, of whom there shall be not more than ten, shall each receive an annual salary of two thousand dollars and shall be attached to the division of industrial hygiene and act as investigators in such division; inspectors of the fifth grade, of whom there shall be not more than nine, one of whom shall be able to speak and write at least five European languages in addition to English, shall each receive an annual salary of two thousand five hundred dollars and shall act as supervising inspectors; inspectors of the sixth grade, of whom there shall be not less than three and one of whom shall be a woman, shall act as medical inspectors and shall each receive an annual salary of two thousand five hundred dollars; inspectors of the seventh grade, of whom there shall not be less than four, shall each receive an annual salary of three thousand five hundred dollars; all of the inspectors of the sixth grade shall be physicians duly licensed to practice medicine in the state of New York. Of the inspectors of the seventh grade one shall be a physician duly licensed to practice medicine in the state of New York, and shall be the chief medical inspector; one shall be a chemical engineer; one shall be a mechanical engineer, and an expert in ventilation and accident prevention; and one shall be a civil engineer, and an expert in fire prevention and building construction.

2. Mercantile inspectors. The commissioner of labor may appoint from time to time not more than twenty mercantile inspectors not less than four of whom shall be women and who may be removed by him at any time. The mercantile inspectors may be divided into three grades but not more than five shall be of the third grade. Each mercantile inspector of the first grade shall receive an annual salary of one thousand dollars; of the second grade an annual salary of one thousand two hundred dollars; and of the third grade an annual salary of one thousand five hundred dollars.] *The commissioner shall appoint and may remove the following officers and assistants who shall have the qualifications and receive the annual salaries herein stated after their respective names of office:*

1. A first deputy commissioner, who shall be the inspector general, five thousand dollars.

2. A second deputy commissioner, who shall be the chief mediator, forty-five hundred dollars.

3. A counsel, who shall be an attorney and counsellor-at-law of this state, four thousand dollars.

4. Assistants to the counsel, who shall be attorneys and counsellors-at-law of this state, such sum as may be appropriated therefor.

5. A chief statistician, such sum as may be appropriated therefor.

6. A chief investigator, who shall be the head of the bureau of industries and immigration, such sum as may be appropriated therefor.

7. A director, who shall be the head of the bureau of employment, such sum as may be appropriated therefor.

8. A superintendent of each public employment office established by the commissioner, such sum as may be appropriated therefor.

9. Two chief factory inspectors, each four thousand dollars.

10. A chief mercantile inspector, not exceeding four thousand dollars.

11. Not less than one hundred and twenty-five factory inspectors, of whom not more than thirty shall be women, divided into seven grades as follows:

a. Not more than ninety-five of the first grade, each twelve hundred dollars.

b. Not more than fifty of the second grade, each fifteen hundred dollars.

c. Not more than twenty-five of the third grade, each eighteen hundred dollars.

d. Not more than ten of the fourth grade, each two thousand dollars.

e. Not more than nine of the fifth grade, each twenty-five hundred dollars.

f. Not less than three of the sixth grade, one of whom shall be a woman and all of whom shall be physicians duly licensed to practice medicine in this state, each twenty-five hundred dollars.

g. Not less than four of the seventh grade, one of whom shall be a physician duly licensed to practice medicine in this state, one a chemical engineer, one a mechanical engineer and an expert in ventilation and accident prevention, and one a civil engineer and an expert in fire prevention and building construction, each thirty-five hundred dollars.

12. Not less than twenty mercantile inspectors, of whom not less than four shall be women, divided into two grades as follows:

a. The first grade, twelve hundred dollars.

b. The second grade, fifteen hundred dollars.

13. Such number of special investigators as may be necessary to carry into effect the powers of the bureau of industries and immigration, divided into two grades as follows:

a. The first grade, twelve hundred dollars.

b. The second grade, fifteen hundred dollars.

14. All other officers, clerks, assistants and employees in the department except as in this chapter otherwise provided.

Note.—The sections in the old law from which provisions have been transferred to this section are as follows: deputies, § 41; counsel and assistants to the counsel, § 48; chief statistician, § 75; chief investigator, § 151; chief factory inspectors, § 55; chief mercantile inspector, § 58; director and superintendents of employment bureau, §§ 66, 66c; factory inspectors, § 54, sub. 1; mercantile inspectors, § 54, sub. 2; special investigator, § 152; all other officers, § 40.

The provision of § 54 that inspectors of the fifth grade shall act as supervising inspectors is in § 73 of the new law. The provision that inspectors of the sixth grade shall act as medical inspectors is in § 83 of the new law.

Change in substance in subdivision 12: not less than twenty instead of not more than twenty mercantile inspectors.

Two grades of mercantile inspectors instead of three, to conform to present practice in department.

§ [50] *12.* Industrial board; [organization] *appointment and salaries.* [1.] There shall be an industrial board, to consist of the commissioner [of labor,] who shall be chairman [of the

board,] and four [associate] members *who* [The associate members] shall be appointed by the governor [by and] with the consent [and advice] of the senate. Of the [associate] members *other than the commissioner* first appointed, one shall hold office until December first, nineteen hundred and fourteen, one until December first, nineteen hundred and fifteen, one until December first, nineteen hundred and sixteen, and one until December first, nineteen hundred and seventeen. Upon the expiration of each of said terms, the term of office of each [associate] *such* member thereafter appointed shall be four years from the first day of December. Vacancies shall be filled by appointment for the unexpired term. The [associate] members *other than the commissioner,* shall each receive [a] *an annual* salary of three thousand dollars [a year] and each of said [associate] members shall be paid his reasonable and necessary traveling and other expenses while engaged in the performance of his duties in the manner provided in section [forty-four] *eighteen* of this chapter.

[2. The board shall appoint and may remove a secretary who shall receive a salary to be fixed by the board. The commissioner of labor shall detail, from time to time, to the assistance of the board, such employees of the department of labor as the board may require. In aid of its work, the board is empowered to employ experts for special and occasional services, and to employ necessary clerical assistants. The counsel to the department of labor shall be counsel to the board without additional compensation.

3. The board shall hold stated meetings, at least once a month during the year at the office of the department of labor in the city of Albany or in the city of New York and shall hold other meetings at such times and places as the needs of the public service may require, which meetings shall be called by the chairman or by any two associate members of the board. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon every question and records of its examinations and other official action.]

Note.— Subdivision 2 of § 50, except the last sentence, is made new § 65. The last sentence of subdivision 2 of § 50 is in new § 66. Subdivision 3 of § 50 is in new section 25.

§ 13. Seal. The industrial board may adopt a seal and require that it be used for the authentication of the board's orders and

proceedings and for such other purposes as the board may prescribe. The courts shall take judicial notice of such seal and of the signatures of the chairman and secretary of the board.

Note.— New section.

§ *14. Badges. The industrial board may procure badges for its members and secretary and for its subordinates and require them to be worn by its subordinates while in the performance of their duties.*

Note.— New section.

§ *15. Industrial board; secretary and assistants. The board shall appoint and may remove a secretary and shall fix his salary. In the performance of its duties the board may employ experts for special and occasional services and necessary clerical assistants and such inspectors and investigators as it may need to carry out its functions. The commissioner shall detail, from time to time, to the assistance of the board, such employees of the department as the board may require.*

Note.— Taken from old § 50, sub. 2. Power to appoint inspectors and investigators, new.

§ [42] *16.* Bureaus. The department [of labor] shall have [five] *the following* bureaus [as follows]: Inspection; statistics and information; [employment] mediation and arbitration*;* [and] industries and immigration*, employment and* [There shall be] such other bureaus [in the department of labor] as the commissioner [of labor] may deem necessary. *Each bureau and division of the department and the persons in charge thereof shall be subject to the supervision and direction of the commissioner, and in addition to their respective duties as prescribed by this chapter, shall perform such other duties as may be assigned to them by the commissioner.*

Note.— Last sentence added to cover frequent repetitions.

§ [45] *17.* Branch offices. The commissioner [of labor] shall establish and maintain branch offices of the department in [the city of] New York *city* and in such other cities of the state as he may deem advisable. [Such b]*B*ranch offices shall, subject to the supervision and direction of the commissioner [of labor], be in immediate charge of such officials or employees as the commis-

sioner [of labor] may designate. [The reasonable and necessary expenses of such offices shall be paid as are other expenses of the commissioner of labor.]

§ [44] *18.* [Salaries and e]*Expenses.* All necessary expenses incurred by the commissioner [of labor] *and the industrial board* in the discharge of [his] *their* duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the *members of the industrial board, the* deputy commissioners, [their assistants,] the [agents and] statisticians, the chief factory inspectors, the factory inspectors, *industrial board inspectors and investigators,* chief investigator, the special investigators, the chief mercantile inspector, mercantile inspectors, and other [field] officers, *clerks, assistants and employees* of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner [of labor] and audited by the comptroller.

Note.— The last sentence of old § 50, sub. 1, in relation to the members of the industrial board has been covered by this section.

[ARTICLE 3-A.] *TITLE II. INDUSTRIAL BOARD; POWERS AND DUTIES.*

[Section 50. Industrial board; organization.
51. Jurisdiction of board.
52. Rules and regulations; industrial code.]

§ *25. Meetings of board. The industrial board shall hold stated meetings, at least once a month at the office of the department in Albany or in New York city, and shall hold other meetings when and where called by the chairman or two members of the board. All meetings of the board shall be open to the public. The board shall keep records of its investigations and other official actions, and minutes of its proceedings showing the vote of each member upon every question.*

Note.— Taken from old § 50, sub. 3.

§ [51. Jurisdiction of board.] *26. Investigations.* [The board shall have power: (1) To make investigations concerning and report upon all matters touching the enforcement and effect of

the provisions of this chapter and the rules and regulations made by the board thereunder, and in the course of such investigations, each member of the board and the secretary shall have power to administer oaths and take affidavits. Each member of the board and the secretary shall have power to make personal inspections of all factories, factory buildings, mercantile establishments and other places to which this chapter is applicable.

(2) To subpoena and require the attendance in this state of witnesses and the production of books and papers pertinent to the investigations and inquiries hereby authorized and to examine them in relation to any matter which it has power to investigate, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the board or excused from attendance.

(3) To make, alter, amend and repeal rules and regulations for carrying into effect the provisions of this chapter, applying such provisions to specific conditions and prescribing specific means, methods or practices to effectuate such provisions.

(4) To make, alter, amend or repeal rules and regulations for guarding against and minimizing fire hazards, personal injuries and disease, with respect to (a) the construction, alteration, equipment and maintenance of factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, including the conversion of structures into factories and factory buildings; (b) the arrangement and guarding of machinery and the storing and keeping of property and articles in factories, factory buildings and mercantile establishments; (c) the places where and the methods and operations by which trades and occupations may be conducted and the conduct of employers, employees and other persons in and about factories, factory buildings and mercantile establishments; it being the policy and intent of this chapter that all factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein and that the said board shall from time to time make such rules and regulations as will effectuate the said policy and intent.

§ 52. Rules and regulations; industrial code. 1. The rules and regulations adopted by the board pursuant to the provisions of this

chapter shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter. Such rules and regulations may apply in whole or in part to particular kinds of factories or workshops, or to particular machines, apparatus or articles; or to particular processes, industries, trades or occupations; and they may be limited in their application to factories or workshops to be established, or to machines, apparatus or other articles to be installed or provided in the future.

2. At least three affirmative votes shall be necessary to the adoption of any rule or regulation by the board. Before any rule or regulation is adopted, altered, amended or repealed by the board there shall be a public hearing thereon, notice of which shall be published not less than ten days, in such newspapers as the board may prescribe. Every rule or regulation and every act of the board shall be promptly published in bulletins of the department of labor or in such newspapers as the board may prescribe. The rules and regulations, and alterations, amendments and changes thereof shall, unless otherwise prescribed by the board, take effect twenty days after the first publication thereof.

3. The rules and regulations which shall be in force on the first day of January, nineteen hundred and fourteen, and the amendments and alterations thereof, and the additions thereto, shall constitute the industrial code. The industrial code may embrace all matters and subjects to which and so far as the power and authority of the department of labor extends and its application need not be limited to subjects enumerated in this article. The industrial code and all amendments and alterations thereof and additions thereto shall be certified by the secretary of the board and filed with the secretary of state.] *The board shall have power to make investigations concerning and report upon the conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this chapter and the rules of the board. Each member of the board and the secretary shall have power to administer oaths and take affidavits and to make personal inspections of all places to which this chapter applies. The board shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them in relation to any matter which it has power to investigate, and to issue commissions for the examination of witnesses who are*

out of the state or unable to attend before the board, or excused from attendance.

Note.— First sentence taken from § 51, sub. 1. The remainder taken from § 51, sub. 2. Section 51, sub. 3, is made new § 27, sub. 1. Section 51, sub. 4, is made new § 27, sub. 2. Section 52, first sentence, is made new § 27, sub. 4. Section 52, sub. 1, second sentence made new § 27, sub. 3. Section 52, sub. 2, covered by new § 28; also § 52, sub. 3, first sentence. Section 52, sub. 3, second sentence covered by new § 27. Section 52, sub. 3, third sentence, covered by new § 28.

§ 27. Enactment of rules. 1. The board shall have power to make, amend and repeal rules for carrying into effect the provisions of this chapter, applying such provisions to specific conditions and prescribing means, methods or practices to effectuate such provisions, and may amend or repeal rules and regulations heretofore prescribed by the commissioner with reference to mines, tunnels and quarries and employment in compressed air. Such rules and regulations heretofore prescribed by the commissioner shall continue in force until amended or repealed by the industrial board.

2. The board shall have power to make, amend and repeal rules for proper sanitation in all places to which this chapter applies, and for guarding against and minimizing fire hazards, personal injuries and diseases in all places to which this chapter applies with respect to

a. The construction, alteration, equipment and maintenance of all such places, including the conversion of structures into factories, factory buildings and mercantile establishments;

b. The arrangement and guarding of machinery and the storing and keeping of property and articles;

c. The places where and the methods and operations by which trades and occupations may be conducted and the conduct of employers, employees and other persons;

It being the policy and intent of this chapter that all places to which it applies shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein, and frequenting the same, and that the board shall from time to time make such rules as will effectuate such policy and intent.

3. The rules may be limited in their application to certain classes of establishments, places of employment, machines, ap-

paratus, articles, processes, industries, trades or occupations or may apply only to those to be constructed, established, installed or provided in the future.

4. The rules of the board shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter.

5. No provision of this chapter specifically conferring power on the industrial board to make rules shall limit the powers conferred by this section.

Note.— Sub. 1 is taken from old § 51, sub. 3, except the portion relating to mines and tunnels, which is adapted from old § 119. Sub. 2 is taken from § 51, sub. 4. (See also Labor Law, § 81, § 79-f, sub. 11.) Sub. 3 is taken from § 52, sub. 1. Sub. 4 is taken from § 52, sub. 1. Sub. 5 is taken from § 52, sub. 3.

§ [99] ***28. Special rules for*** [D]dangerous trades *and processes.* **Whenever the industrial board** [shall] finds [as a result of its investigations] that any industry, trade or occupation *or process* [by reason of the nature of the materials used therein or the products thereof or by reason of the methods or processes or machinery or apparatus employed therein or by reason of any other matter or thing connected with such industry, trade or occupation, contains] *involves* such elements of danger to the lives, health or safety of persons employed therein as to require special regulation for the protection of such persons, *the* [said] board shall have power to make [such] special rules [and regulations as it may deem necessary] to guard against such elements of danger by establishing requirements as to temperature, humidity, the removal of dusts, gases or fumes and requiring licenses to be applied for and issued by the commissioner [of labor] as a condition of carrying on any such industry, trade or occupation *or process* and requiring medical inspection and supervision of persons employed and applying for employment, and by other appropriate means.

§ 29. Procedure; industrial code. The rules of the board shall constitute the industrial code. At least three affirmative votes shall be necessary for the adoption, amendment or repeal of any rule. Before any rule is adopted, amended or repealed, there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto, in such newspapers as the board may prescribe and in the city of New York in the

City Record. Every rule adopted, every amendment or repeal thereof and every act of the board shall be promptly published in the bulletins of the department and in the City Record in the city of New York. The rules and all amendments and repeals thereof shall, unless otherwise prescribed by the board, take effect twenty days after the first publication thereof, and every rule and every amendment or repeal thereof shall be certified by the secretary of the board and filed with the secretary of state.

Note.— The first sentence is taken from old § 52, sub. 3. The balance of the section except the last sentence is taken from § 52, sub 2. The last sentence is taken from § 52, sub. 3. Provision for publication in City Record, New York City, is new.

§ 30. Variations. If there shall be practical difficulties or unnecessary hardship in carrying out any provision of this chapter, or rule adopted by the industrial board thereunder, affecting the construction or alteration of buildings, the installation of fixtures and apparatus, or the safeguarding of machinery and prevention of accidents, the industrial board shall have power to make a variation from such requirements if the spirit of the provision or rule shall be observed and public safety secured. Any person affected by such provision or rule, or his agent, may petition the board for such variation stating the grounds therefor. The board shall fix a day within a reasonable time for a hearing on such petition and give notice thereof to the petitioner who may appear in person or by agent or attorney. If the board shall permit such variation it shall be in the form of a resolution and such variation shall apply to all buildings, installations or conditions where the facts are substantially the same as those stated in the petition. Such resolution shall contain a description of the conditions under which such variation shall be permitted and shall be published in the manner provided for rules of the board. A record of all such variations shall be kept in the office of the industrial board and shall be properly indexed under section numbers of the law or industrial code to which each variation applies, and shall be open to public inspection during business hours.

Note.— This provision is new and confers on the industrial board substantially the same powers as are conferred on the board of examiners of buildings by § 410 of the Greater New York charter.

TITLE III. COMMISSIONER OF LABOR; POWERS AND DUTIES.

§ 40. General duty to enforce labor laws. The commissioner shall enforce all the provisions of this chapter and the rules of

the industrial board except as in this chapter otherwise provided. He may also enforce any lawful municipal ordinance, by-law or regulation not in conflict with the provisions of this chapter or the rules of the industrial board relating to any place affected by the provisions of this chapter. The commissioner may call upon other state or local officers of boards or departments of health to secure the enforcement of the provisions of this chapter in so far as they relate to establishments other than factories specified in section one hundred and sixty, and for that purpose such state or local officers or boards of health shall have all of the powers conferred upon the commissioner by this chapter.

Note.— First sentence derived from clause in §§ 21, 56, 49 and 120 of the old law. Second sentence taken from old § 59, sub. 5. Last sentence is new.

§ *41. Power to enter and inspect premises. The commissioner or his deputies and assistants shall inspect every place which is, or which they may have reasonable cause to believe is, affected by the provisions of this chapter and he and his deputies and assistants may, in the discharge of their duties, enter any such place.*

Note.— Covers various provisions scattered through the law, including § 56, subs. 3 and 4; § 59, subs. 3 and 4; § 64, § 100, sub. 5 and § 136.

§ *42. Examination of books and papers. All books, papers, records or other documents required to be kept by the provisions of this chapter or the rules of the industrial board, shall at all times be open to the inspection of the commissioner, his deputies and assistants, and the person in charge thereof shall afford every reasonable facility for their examination and shall furnish a copy thereof when demanded by the commissioner.*

Note.—This general provision covers various special provisions scattered through the law, including § 8-a, sub. 4; § 14, second sentence from the end; § 100, second sentence from the end.

§ *43. Inspectors' reports. Every person acting as an inspector for the department shall report the facts and conditions observed or discovered by him in the course of every inspection made by him under the provisions of this chapter. The commissioner shall prescribe the form, scope and the manner of making such reports. The reports shall be filed in the department.*

Note.— General provisions. Substantially new.

§ [64. Information to be furnished upon request.] *44. Duty to furnish information and facilitate department's inspections.*

The owner, operator, manager or lessee of any [mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing] establishment[,] *or place affected by the provisions of this chapter* or [any] *his* agent, superintendent, subordinate, or employee [thereof,] and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner [of labor,] furnish any information in his possession or under his control which the commissioner is authorized to require, *shall answer truthfully all questions put to him by the commissioner in a circular or otherwise,* [and] shall admit [him or his duly authorized representative] *the commissioner or his deputies or assistants* to any place which is affected by the provisions of this chapter for the purpose of *making* inspection *or enforcing the provisions of this chapter and the rules of the industrial board, and shall render assistance necessary for a proper inspection.* [A person refusing to admit such commissioner, or person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid into the state treasury.]

Note.— The latter part of § 54 omitted from this section is covered by new § 405, penalties generally. The requirements that the owner shall assist the inspectors adapted from the concluding words of old § 136. The section as revised from § 64 also covers the latter portion of old § 43, sub. 2.

§ *45. Interference with department prohibited. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner, his deputies or assistants or any member of the industrial board or the secretary or assistants thereof, while in the performance of their duties.*

Note.— Taken from old § 43, sub. 2.

§ *46. Service of notice. Whenever the department or commissioner, or any person affected by the provisions of this chapter, is required or authorized by this chapter or any rule made in pursuance thereof to give notice in writing to any other person, such notice may be given by mailing it in a letter addressed to the person to whom it is required to be given at his last known*

residence or place of business or by delivering it personally to such person. Notice to a partnership may be given to any of the partners and notice to a corporation may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or to any agent in charge of the business or place of employment conducted by the corporation. Whenever the department or commissioner is required or authorized to issue an order for compliance with any of the provisions of this chapter, such order shall be served in the manner hereinbefore specified for the service of notices or by delivering it personally to the person to whom it is required or authorized to be addressed, or to any person of suitable age and discretion in charge of the premises affected by such order, or if no person be found in charge of the premises then by affixing a copy of such order prominently upon the premises.

Note.— Substantially new but covering various provisions of the law, e. g., § 127.

§ *47. Reissuance of revoked licenses. Unless otherwise provided by this chapter, the commissioner or other public officer authorized by this chapter to cancel, revoke or suspend any license or certificate granted by him may, when satisfied that the reasons for the cancellation, suspension or revocation no longer exist, reissue such license or certificate and it shall thereafter be of the same force and effect as a new license duly issued, but only for the remainder of the period for which the original license or certificate was issued.*

Note.— New section.

§ *48. Commissioner to keep record and publish bulletin of licenses. The commissioner shall keep a record of all licenses or permits or certificates issued by him under the provisions of this chapter or any rule made in pursuance thereof. A complete list (1) of all persons and places holding licenses, certificates or permits, to manufacture in tenement houses, to increase the hours of labor of women in canneries, to conduct bakeries and to exempt cellar bakeries, showing the name and address of the owner of the licensed place, building or business, the address of the licensed business and the name under which it is carried on, the address and place of business of the licensee, and (2) of all such licenses, cer-*

tificates or permits revoked, suspended or cancelled shall be published from time to time by the commissioner.

Note.— Adapted from the last sentence of old § 106, but substantially new.

§ *49. Blanks to be prepared. Whenever any person is required by the provisions of this chapter or any rule made in pursuance of authority granted in this chapter to give notice, furnish information, present a petition, or make or keep any report, record, book, paper or other documentary evidence on blanks furnished by the department, the commissioner shall prepare and furnish such blanks free of charge to all persons applying therefor.*

Note.— New in form to cover various provisions of the law.

§ [46]*50. Annual* [R]reports. The commissioner [of labor] shall report annually to the legislature and shall include in his annual report or make separately in each year a report of the operation of each bureau in the department, *and the report of the director of the division of industrial hygiene of the bureau of inspection.*

Note.— The new matter in relation to the report of the director of the division of industrial hygiene is taken from § 60. The section also covers the provisions of §§ 145 and 156-a, relating to the bureau of mediation and arbitration. Also covers the provisions of § 120, in relation to report of mines and tunnels.

§ *51. Seal. The commissioner may adopt a seal for the department and require that it be used for the authentication of the department's orders and proceedings, and for such other purposes as he may prescribe. The courts shall take judicial notice of such seal and of the signatures of the commissioner and the deputy commissioners.*

Note.— New. Old § 154, however, requires subpoenas to be under the seal of the department.

§ *52. Badges. The commissioner may procure badges for himself and his subordinates and require them to be worn by his subordinates while in the performance of their duties.*

Note.— Taken from old § 43, sub. 4.

§ [47]*53. Destruction of* old records. All statistics furnished to and all complaints, reports and other documentary matter received by the commissioner [of labor pursuant to this chapter or

any act repealed or superseded thereby] may be destroyed [by such commissioner] after the expiration of six years from the time of the receipt thereof.

§ *54. Department's process to be in commissioner's name. All notices, orders and directions of any officer, agent or employee of the department other than the industrial board given in accordance with this chapter are subject to the approval of the commissioner and may be performed or given by and in his name by any officer or employee of the department thereunto duly authorized by him.*

Note.— Taken from old § 43, sub. 3.

§ [43] *55.* [Powers] *Oaths and affidavits.* [1.] The commissioner [of labor], his deputies [and their] *and* assistants [and each agent, chief factory inspector, factory inspector, mine inspector, tunnel inspector, chief investigator, special investigator, chief mercantile inspector, and mercantile inspector] may administer oaths and take affidavits in matters relating to the provisions of this chapter.

[2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, any member of the industrial board, or any officer, agent or employee of the department of labor while in the performance of their duties, or refuse to properly answer questions asked by such officers or employees pertaining to the provisions of this chapter, or refuse them admittance to any place which is affected by the provisions of this chapter.

3. All notices, orders and directions of any officer, agent or employee of the department of labor other than the commissioner of labor or the industrial board given in accordance with this chapter are subject to the approval of the commissioner of labor, and may be performed or given by and in the name of the commissioner of labor and by any officer or employee of the department thereunto duly authorized by such commissioner in the name of such commissioner.

4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties.]

Note.— Section 43, sub. 2, is covered by new §§ 44 and 45. Section 43, sub. 3, is covered by new § 54. Section 43, sub. 4, is covered by new § 52.

§ *56. Hearings and subpoenas. The commissioner or any of his deputies or assistants duly designated by him shall have power*

1. To issue subpoenas for and compel the attendance of witnesses and the production of books, contracts, papers, documents and other evidence;

2. To hear testimony and take or cause to be taken depositions of witnesses residing within or without this state in the manner prescribed by law for like depositions in civil actions in the supreme court.

Subpoenas and commissions to take testimony shall be issued under the seal of the department.

Note.— Taken in part from old § 154 and made general.

§ [154] *57.* Proceedings before [the commissioner of labor.] *deputies or assistants.* Any investigation, inquiry or hearing which the commissioner [of labor] has power to undertake or to hold may by *his* special authorization [from the commissioner of labor,] be undertaken or held by or before [the chief investigator, or any official whom he may designate,] *any of his deputies or assistants* and any decision rendered on such investigation, inquiry or hearing, when approved, and confirmed by the commissioner and ordered filed in his office, shall [be and be deemed to] be the order of the commissioner. [All hearings before the commissioner or chief investigator or official duly designated therefor shall be governed by rules to be adopted and prescribed by the commissioner. The commissioner or chief investigator or official duly designated therefor shall not be bound by technical rules of evidence, and shall have the power to subpoena any witness or any person, and to examine all books, contracts, records and documents of any person or corporation and by subpoena duces tecum to compel production thereof, and to effect as far as practicable an amicable settlement or adjustment of any such complaint. Such subpoena shall be issued by the commissioner or chief investigator under the seal of the department of labor. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, or official duly designated thereof,* when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any

penalty or forfeiture, for or on account of any act, transaction, matter or thing, concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.]

Note.— The provision of old § 154 that hearings shall be governed by the rules adopted by the commission and not subject to technical rules of evidence is new § 48. The provision of § 154 for hearing testimony and subpoenaing witnesses is new § 46. The last sentence of § 154 in relation to immunity from prosecution has not been re-enacted.

§ 58. Rules governing hearings. The commissioner or his deputy or assistant duly designated therefor shall not be bound by technical rules of evidence and shall conduct all hearings according to rules prescribed by the commissioner.

Note.— Taken from first and second sentences of old § 154.

TITLE IV. SUBORDINATE OFFICERS; POWERS AND DUTIES.

[§ 41]*65.* [Deputy commissioners.] *Powers and duties of deputies. Whenever, in this chapter, authority is conferred upon the commissioner it shall, except as to appointments and removals, include his deputies or a deputy acting under his direction.* [The commissioner of labor shall forthwith upon entering upon the duties of his office, appoint and may at pleasure remove two deputy commissioners of labor. The first deputy commissioner shall receive a salary of five thousand dollars a year; the second deputy commissioner shall receive a salary of four thousand five hundred dollars a year. The first deputy commissioner of labor shall, during]

During the absence or disability of the commissioner [of labor,] *the first deputy commissioner* shall possess all the powers and perform all the duties of the commissioner except the power of appointment and removal. During the absence or disability of both the commissioner [of labor] and the first deputy commissioner [of labor,] the second deputy commissioner shall possess all the powers and perform all the duties of the commissioner except the power of appointment and removal. *In case of a vacancy in the office of commissioner the deputy commissioner acting as commissioner shall have the power of appointment and removal.* In addition to their duties and powers as prescribed by the provisions of this chapter, the deputy commissioners [of labor] shall

perform such other duties and possess such other powers as the commissioner [of labor] may prescribe.

Note.— The first sentence is taken from labor law, § 2, last paragraph. The provisions of old § 41, in relation to appointment and salaries of deputies, is in new § 11.

§ [48]*66. Duties of* counsel. [The commissioner of labor shall appoint and may at pleasure remove counsel who shall be an attorney and counsellor at law of the state of New York to] *The counsel of the department shall* represent the department [of labor] and [to] take charge of and assist in the prosecution of actions and proceedings brought by or on behalf of the commissioner [of labor] or the department [of labor], and generally [to] *shall* act as legal adviser to the commissioner *and the industrial board.* [Such counsel shall receive a salary of four thousand dollars a year. The commissioner of labor shall have power to appoint and at pleasure remove attorneys and counsellors at law to] *The assistants to the counsel shall* assist the counsel in the performance of his duties [who shall receive such compensation as may be provided by law].

Note.— The provisions of old § 48, relating to appointment and compensation of counsel and assistants is in new § 11. The provision that counsel shall act as legal adviser to the industrial board is taken from old § 50, sub. 2.

[ARTICLE 4.] *TITLE V.* BUREAU OF INSPECTION.

[Section 53. Bureau of inspection; inspector general; divisions.
54. Inspectors.
55. Division of factory inspection; factory inspection districts; chief factory inspectors.
56. Idem; general powers and duties.
57. Division of homework inspection.
58. Division of mercantile inspection.
59. Idem; general powers and duties.
60. Division of industrial hygiene.
61. Section of medical inspection.]

§ [53]*70.* Bureau of inspection; [inspector general;] divisions. The bureau of inspection[, subject to the supervision and direction of the commissioner of labor,] shall have charge of all inspections made pursuant to the provisions of this chapter. [and shall perform such other duties as may be assigned to it by the commissioner of labor. The first deputy commissioner of labor

shall be the inspector general of the state, and in charge of this bureau subject to the direction and supervision of the commissioner of labor, except that the division of industrial hygiene shall be under the immediate direction and supervision of the commissioner of labor. Such] *This* bureau shall have [four] *the following* divisions [as follows]: factory inspection, [homework inspection] mercantile inspection, *homework inspection,* [and] industrial hygiene, *and* [There shall be] such other divisions [in such bureau] as the commissioner [of labor] may deem necessary. [In addition to their respective duties as prescribed by the provisions of this chapter, such divisions shall perform such other duties as may be assigned to them by the commissioner of labor.]

Note.— The provision of old § 53 that the first deputy shall be the inspector general for the state is in new § 71. The provisions of old § 53 in relation to the performance of and duties as assigned by the commission are in new § 16.

§ *71. Inspector general. The first deputy commissioner shall be the inspector general, and shall have charge of the bureau of inspection.*

Note.— Taken from old § 53, second sentence.

§ [55]*72.* [Division of factory inspection; f]*F*actory inspection districts; chief factory inspectors. [For the inspection of factories, t]*T*here shall be two inspection districts to be known as the first factory inspection district and the second factory inspection district. The first [factory inspection] district shall include the counties of New York, Bronx, Kings, Queens, Richmond, Nassau and Suffolk. The second [factory inspection] district shall include all the other counties of the state. [There shall be two chief factory inspectors who shall be appointed by the commissioner of labor and who may be removed by him at any time and each of whom shall receive a salary of four thousand dollars a year.] The inspection of factories in each [factory inspection] district shall[, subject to the supervision and direction of the commissioner of labor,] be in charge of a chief factory inspector assigned to such district by the commissioner [of labor. The commissioner of labor may designate one of the supervising inspectors as assistant chief factory inspector for the first district, and while acting as such assistant chief factory inspector he shall receive an additional salary of five hundred dollars per annum].

Note.— The provision of old § 55 for two chief factory inspectors and their salaries is in new § 11. The last sentence of old § 55 in relation to supervising inspectors is in new § 73.

§ *73. Supervising factory inspectors. The factory inspectors of the fifth grade shall act as supervising inspectors. The commissioner may designate one of the supervising inspectors as assistant chief factory inspector for the first district, who while so acting shall receive additional compensation at the rate of five hundred dollars a year.*

Note.— First sentence taken from old § 54, second sentence taken from old § 55, last sentence.

§ [56. Idem; general powers and duties]. *74. Factory inspection subdistricts.* [1] The commissioner [of labor] shall, from time to time, divide the [state] *factory inspection districts* into subdistricts, *and* assign one [factory inspector of the fifth grade to each subdistrict as] supervising inspector *to each subdistrict*, and may [in his discretion] transfer [such supervising inspector] *him* from one subdistrict to another.[; he shall from time to time, assign and transfer factory inspectors to each factory inspection district and to any of the divisions of the bureau of inspection; he may assign any factory inspector to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one or more of them to act as clerks in any office of the department.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a factory inspector with the full power and authority thereof.

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants, and every factory inspector and every person duly authorized pursuant to sub-division two of this section may, in the discharge of his duties enter any place, building or room which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any labor is being performed therein.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter and the rules and regulations of the industrial board to be enforced therein.

5. Any lawful municipal ordinance, by-law or regulation relating to factories, in addition to the provisions of this chapter and

not in conflict therewith, may be observed and enforced by the commissioner of labor.]

Note.— The provision of old § 56, sub. 1, as to assignment of factory inspectors is new § 76. Old § 56, sub. 2, is new § 75. Old § 56, sub. 3, is covered by new § 41. Old § 56, subs. 4 and 5, covered by new § 40.

§ *75. Special factory inspectors. The commissioner may authorize any deputy commissioner or assistant and any agent, inspector or employee in the department to act as a factory inspector.*

Note.— Taken from old § 56, sub. 2.

§ *76. Assignment of factory inspectors. The commissioner shall, from time to time, assign the factory inspectors to the several factory inspection districts and divisions of the bureau of inspection and may transfer them from one to another of such districts and divisions and may assign them to any division or bureau of the department. He may assign any factory inspector to inspect any special class of factories or to enforce any special provisions of this chapter, or to act as clerks in any office of the department.*

Note.— Taken from old § 56, sub. 1.

§ [58]77. Division of mercantile inspection. The division of mercantile inspection shall be under the immediate charge of the chief mercantile inspector[, but subject to the direction and supervision of the commissioner of labor. The chief mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive an annual salary not to exceed four thousand dollars].

Note.— Appointment and salary of chief mercantile inspector covered by new § 11, sub. 12.

§ [59]*78.* [Idem; general powers and duties. 1.] *Mercantile inspection districts.* The commissioner [of labor] may divide the [cities of the first and second class of the] state into mercantile inspection districts, *and* assign one or more mercantile inspectors to each [such] district, and may [in his discretion] transfer them from one [such] district to another.[; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article twelve of this chapter, situated in cities of the first and second class, or to enforce in cities of the first or second class any special provision of such article.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a mercantile inspector with the full power and authority thereof.

3. The commissioner of labor, the chief mercantile inspector and his assistant or assistants and every mercantile inspector or acting mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first or second class which is affected by the provisions of article twelve of this chapter, and may enter any mercantile or other establishment specified in said article, situated in the cities of the first or second class, whenever he may have reasonable cause to believe that it is affected by the provisions of article twelve of this chapter.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article twelve of this chapter situated in cities of the first and second class, as often as practicable, and shall cause the provisions of said article and the rules and regulations of the industrial board to be enforced therein.

5. Any lawful municipal ordinance, by-law or regulation relating to mercantile or other establishments specified in article twelve of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first and second class.]

Note.— The provision of old § 59, sub. 1, in relation to assignment of mercantile inspectors is new § 80. Old § 59, sub. 2, is new § 79. Old § 59, sub. 3, is covered by new § 41. Old § 59, subs. 4 and 5, covered by new § 40. Jurisdiction of labor department over mercantile establishments extended to cover the entire state.

§ *79. Special mercantile inspectors. The commissioner may authorize any deputy commissioner or assistant and any agent, inspector, or employee in the department to act as a mercantile inspector.*

Note.— Taken from old § 59, sub. 2.

§ *80. Assignment of mercantile inspectors. The commissioner may assign any mercantile inspector to inspect any special class of mercantile or other establishments specified in section one hundred and sixty or to enforce any special provision of this chapter applicable thereto. He may also assign any mercantile inspector to any division or bureau of the department.*

Note.— Taken from old § 59, sub. 1.

§ [57] *81.* Division of home work inspection. [The division of homework inspection shall be in charge of an officer or employee of the department of labor designated by the commissioner of labor and shall, subject to the supervision and direction of the commissioner of labor, have charge of all inspections of tenement houses and of labor therein and of all work done for factories at places other than such factories.] *The division of homework inspection shall have charge of all inspections of tenement houses and of labor therein and of all work done therein for factories, and shall be in charge of an officer or employee of the department designated by the commissioner.*

Note.— Rewritten without change of substance.

§ [60] *82.* Division of industrial hygiene. [The inspectors of the seventh grade shall constitute the division of industrial hygiene, which shall be under the immediate charge of the commissioner of labor. The commissioner of labor may select one of the inspectors of the seventh grade to act as the director of such division, and such director while acting in that capacity shall receive an additional compensation of five hundred dollars a year.] *The factory inspectors of the seventh grade shall be members of and shall constitute the division of industrial hygiene. The commissioner may select one of the members to be director of the division who, while so acting, shall receive additional compensation at the rate of five hundred dollars a year. The factory inspectors of the fourth grade shall be attached to this division and shall act as investigators therein.* The members of the division [of industrial hygiene] shall make special inspections of factories, mercantile establishments and other places subject to the provisions of this chapter, [throughout the state, and] shall conduct special investigations of industrial processes and conditions, *and shall prepare material for leaflets and bulletins calling attention to dangers in particular industries and the precautions to be taken to avoid them.* The commissioner [of labor] shall submit to the industrial board the recommendations of the division regarding proposed rules [and regulations] and standards to be adopted to carry into effect the provisions of this chapter and shall advise [said] *the* board concerning the operation of such rules and standards and as to any changes or modifications to be made therein. [The members of such division shall prepare material for leaflets and bulletins calling attention to dangers in particular

industries and the precautions to be taken to avoid them and shall perform such other duties and render such other services as may be required by the commissioner of labor.] The director [of such division] shall make an annual report to the commissioner [of labor of the operation of the division], to which may be attached the individual reports of each member of the division [as above specified, and same shall be transmitted to the legislature as part of the annual report of the commissioner of labor].

Note.— Rewritten, in part, without change of substance. The provision that factory inspectors of the 4th grade shall be attached to the division of industrial hygiene is taken from old § 54, sub. 1. The last clause of old § 60, in relation to the annual report of the commission, is covered by new § 50.

§ [61] *83.* Section of medical inspection. The *factory* inspectors of the sixth grade *shall act as medical inspectors and* shall constitute the section of medical inspection. *The factory inspector of the seventh grade who is a physician, shall be the chief medical inspector, and shall have charge of this section,* [which shall,] subject to the supervision and direction of the director of the division of industrial hygiene[, be under the immediate charge of the chief medical inspector]. The section of medical inspection shall inspect factories, mercantile establishments and other places subject to the provisions of this chapter [throughout the state] with respect to conditions of work affecting the health of persons employed therein and shall have charge of the physical examination and medical supervision of all children employed therein [and shall perform such other duties and render such other services as the commissioner of labor may direct].

Note.— The provision of the first sentence that inspectors of the 6th grade shall act as medical inspectors is taken from old § 54. So also the second sentence in relation to the chief medical inspector.

[ARTICLE 5.] *TITLE VI.* BUREAU OF STATISTICS AND INFORMATION.

[Section 62. Bureau of statistics and information.
63. Divisions; duties and powers.
64. Information to be furnished upon request.
65. Industrial poisoning to be reported.]

§ [62] *90.* Bureau of statistics and information*; divisions.* [The bureau of statistics and information, shall be under the immediate charge of a chief statistician, but subject to the direction and supervision of the commissioner of labor.

§ 63. Divisions; duties and powers. 1. The bureau of statistics and information shall have five divisions as follows: general labor statistics; industrial directory; industrial accidents and diseases; special investigations; and printing and publication. There shall be such other divisions in such bureau as the commissioner of labor may deem advisable. Each of the said divisions shall, subject to the supervision and direction of the commissioner of labor and of the chief statistician, be in charge of an officer or employee of the department of labor designated by the commissioner of labor; and each of the said divisions, in addition to the duties prescribed in this chapter, shall perform such other duties as may be assigned to it by the commissioner of labor.

2. The division of general labor statistics shall collect, and prepare statistics and general information in relation to conditions of labor and the industries of the state.

3. The division of industrial directory shall prepare annually an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial conditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough.

4. The division of industrial accidents and diseases shall collect and prepare statistical details and general information regarding industrial accidents and occupational diseases, their causes and effects, and methods of preventing, curing and remedying them, and of providing compensation therefor.

5. The division of special investigations shall have charge of all investigations and research work relating to economic and social conditions of labor conducted by such bureau.

6. The division of printing and publication shall print, publish and disseminate in such manner and to such extent as the commissioner of labor shall direct, such information and statistics as the commissioner of labor may direct for the purpose of promoting the health, safety and well being of persons employed at labor.

7. The commissioner of labor may subpoena witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths.] *The bureau of statistics and information shall be under the immediate charge of the chief statistician. This bureau shall have the following divisions: general labor statistics; industrial directory; industrial accidents and diseases; special investigations; printing and publication, and such other divisions as the commissioner may deem advisable. Each division shall, subject to the supervision and direction of the chief statistician, be in charge of an officer or employee of the department designated by the commissioner.*

Note.— The first sentence is taken from old § 62. Second and third sentences are taken from old § 63, sub. 1. Old § 63, subs. 2 and 3, covered by new § 91, sub. 1. Old § 63, sub. 4, covered by new § 91, sub. 3. Old § 63, sub. 5, covered by new § 91, sub. 4. Old § 63, sub. 6, covered by new § 91, sub. 5. Old § 63, sub. 7, covered by new § 56.

§ 91. Powers and duties of divisions. 1. General labor statistics. The division of general labor statistics shall collect and prepare statistics and general information in relation to conditions of labor and the industries of the state.

2. Industrial directory. The division of industrial directory shall prepare an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall be published as part of the report of the bureau and shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial conditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough.

3. Industrial accidents and diseases. The division of industrial accidents and diseases shall collect and prepare statistical details and general information regarding industrial accidents and occupational diseases, their causes and effects, and methods of preventing, curing and remedying them, and of providing compensation for disability or death resulting from them.

4. Special investigations. The division of special investigations shall have charge of all investigations and research work relating to economic and social conditions of labor.

5. Printing and publication. The division of printing and publication shall have charge of all department printing and shall print, publish and disseminate such information and statistics as the commissioner may direct for the purpose of promoting the health, safety and well being of employees.

Note.— Taken from old § 63, subs. 2–6.

[ARTICLE 10.] *TITLE VII.* BUREAU OF MEDIATION AND ARBITRATION.

[Section 140. Chief mediator.
141. Mediation and investigation.
142. Board of mediation and arbitration.
143. Arbitration by the board.
144. Decisions of board.
145. Annual report.
146. Submission of controversies to local arbitrators.
147. Consent; oath; powers of arbitrators.
148. Decision of arbitrators.]

§ [140] *95.* [Chief mediator] *Bureau of mediation and arbitration.* [There shall continue to be a bureau of mediation and arbitration.] The second deputy commissioner [of labor] shall be the chief mediator [of the state] and in immediate charge of *the bureau of mediation and arbitration* [this bureau, but subject to the supervision and direction of the commissioner of labor].

Note.— First sentence of old § 140 covered by new § 16.

§ 96. Board of mediation and arbitration. There shall be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department to be from time to time designated by the commissioner. The chief mediator when present shall be chairman of the board.

Note.— Taken from old § 142, first two sections.

§ [141] *97.* Mediation and investigation. Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner [of labor] deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause *of an existing or threatened strike or lockout* [thereof,]

and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ [142] *98.* [Board of mediation and arbitration.] *Procedure of board.* [There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when present shall be chairman of the board.] Two members of [such] *the state board of mediation and arbitration* [board] shall constitute a quorum for the transaction of business, and may hold meetings at any time [or] *and at any* place within the state. Examinations or investigations ordered by the board may be held *by* and taken [by and] before any of [their number,] *its members* if so directed, but a decision rendered in such a case shall not be deemed [conclusive] *final* until approved by the board.

Note.— Old section 142, first two sentences covered by new § 96.

§ [143] *99.* Arbitration by the board. A [grievance or dispute] *controversy* between an employer and his employees may be submitted to the board of arbitration and mediation for [their] *its* determination and settlement. [Such] *The* submission shall be *by written statement containing* (*a*) *a detailed description of* [in writing, and contain a statement in detail of] the [grievance or dispute] *controversy* and the cause thereof, and (*b*) [also] an agreement to abide the determination of the board, and [during the investigation] to continue in business or at work *during the investigation*[, without a lockout or strike]. Upon such submission, the board shall examine the matter in controversy. For the purpose of [such] *the* inquiry [they] *it* may subpoena witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpoenas shall be issued by the chairman under the seal of the department [of labor]. Witnesses shall be allowed the same fees as in courts of record. [The decision of the board must be rendered within ten days after the completion of the investigation.]

Note.— Old § 143, last sentence covered by new § 100.

§ [144] *100.* Decisions of board. Within ten days after the [completion of every arbitration] *close of the inquiry*, the board or a majority thereof shall render a decision, stating such details

as [will] clearly show the nature of the controversy and the [points disposed of by them] *questions decided,* [and make a written report of] their findings of fact and [of] their recommendations [to each party of the controversy]. Every decision [and report] shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

[§ 145. Annual report. The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.]

§ [146] *101.* Submission of controversies to local arbitrators. A [grievance or dispute] *controversy* between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. *One arbitrator shall be appointed by the employer and one by the employees. The two so designated shall appoint a third, who shall be chairman of the board.* [When] *If* the employees concerned are members in good standing of a labor organization, [one] *the* arbitrator *to represent them* may be appointed by such organization [and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board]. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate [one] *the* arbitrator *to represent them* [for such board].

§ [147] *102.* Consent; oath; powers of arbitrators. Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties [as such arbitrator], which consent and oath shall be filed in the clerk's office [of] *in* the county or counties where the controversy arose. [When such board is ready for the transaction of business, it] *The board* shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules *governing* [for its government and] the transaction of the business before it, and fix its sessions and adjournments.

§ [148] *103.* Decisions of arbitrators. [The board shall, w] *W*ithin ten days after the close of the [hearing,] *inquiry, the board shall* render a [written] decision signed by *each member* [them giving] *stating* such details as clearly show the nature

of the controversy and the questions decided by them. One copy of the decision shall be filed in the *clerk's* office [of the clerk of] *in* the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration, *and a copy served upon each party to the controversy.*

[ARTICLE 11.] *TITLE VIII.* BUREAU OF INDUSTRIES AND IMMIGRATION.

[Section 151. Bureau of industries and immigration.
152. Special investigators.
153. General powers and duties.
154. Proceedings before the commissioner of labor.
155. Registration and reports of employment agencies.
156. The licensing and regulation of immigrant lodging places.
156-a. Reports.]

§ [151] *110.* **Bureau of industries and immigration.** The[re shall be a] bureau of industries and immigration[, which] shall be under the immediate charge of [a] *the* chief investigator. [, but subject to the supervision and direction of the commissioner of labor.

§ 152. Special investigators. The commissioner of labor may appoint from time to time such number of special investigators and such other assistants as may be necessary to carry into effect the powers of the said bureau herein defined, who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of fifteen hundred dollars, and each of the second grade an annual salary of twelve hundred dollars.]

Note.— Old § 152 covered by new § 11, sub. 15.

§ [153] *111.* **General powers and duties.** [1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the state; to ascertain the occupations for which such

aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government, or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages, and destination within the state of all alien children of school age, and such other facts as will tend to identify them and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state to ascertain the necessity for and the extent to which instruction should be imparted to aliens within the state; to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects, and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and may establish and supervise classes and otherwise further their education.

4. The commissioner of labor may enter and inspect all labor camps within the state, and any camp which he may have reasonable cause to believe is a labor camp; and shall inspect all employment and contract labor agencies dealing with aliens, or whenever he may have reasonable cause to believe that such employment or contract labor agencies deal with aliens; or who secure or negotiate contracts for their employment within the state; shall inspect all immigrant lodging places or all places where he has reasonable cause to believe that aliens are received, lodged, boarded or harbored; shall co-operate with other public

authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted.

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state.] *The bureau of industries and immigration shall:*

1. Have charge of the enforcement of the provisions of this chapter relating to immigrant lodging houses.

2. Investigate conditions prevailing at all docks, ferries, railway stations and other places, where aliens arrive or depart, and also on boats and trains, and, in co-operation with the proper authorities, afford such aliens protection against frauds, crimes and exploitation; investigate all complaints with respect to frauds, extortion, incompetency, improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and pre-

sent to the proper authorities the results of such investigation for action thereon and to effect as far as practicable an amicable settlement of any such complaint; investigate and inspect labor camps; investigate and inspect institutions established for the temporary shelter and care of aliens; investigate and inspect philanthropic societies and other agencies organized for the purpose of aiding in the distribution and employment of aliens and the methods by which they are conducted; investigate the general social condition and welfare of, and industrial opportunities for, all aliens arriving or residing within the state and, in conjunction with existing public and private agencies, consider and devise means to promote the public welfare.

3. Co-operate with the public authorities charged with the duty of enforcing laws applicable to private bankers and steamship ticket agents dealing with aliens and laborers; co-operate with the commissioner of education and the several school authorities to ascertain the extent to which instruction should be imparted to adult and minor aliens within the state and to devise methods for the proper instruction of such aliens and may establish and supervise classes for the education of aliens.

4. Co-operate with public and philanthropic employment and immigration bureaus and agencies and devise and carry out suitable methods of aiding in the distribution and employment of aliens.

Note.— Rewritten without change of substance. Provisions in old law for collection of material with reference to deportable aliens and supply of labor by aliens, omitted. Words steamship ticket agents new in sub. 3.

[ARTICLE 5-A.] *TITLE IX.*

BUREAU OF EMPLOYMENT.

[Section 66. Directors.
66–a. Public employment offices.
66–b. Purpose.
66–c. Officers.
66–d. Registration of applicants.
66–e. Reports of superintendents.
66–f. Advisory committees.
66–g. Notice of strike or lockouts.
66–h. Applicants not to be disqualified.
66–i. Departments.
66–j. Juveniles.

66–k. Co-operation of public employment.
66–l. Advertising.
66–m. Service to be free.
66–n. Penalties.
66–o. Labor market bulletin.
66–p. Information for employment agencies.]

§ *120. Bureau of employment; offices. The bureau of employment shall be under the immediate charge of the director, who shall have technical and scientific knowledge upon the subject of unemployment and administration of public employment offices and ability to direct investigations of unemployment and public and private agencies for remedying the same. The civil service examination for the position of director shall be such as to test whether candidates have such qualifications. The commissioner shall establish such employment offices as may be needed for the purpose of bringing together workmen in search of employment and employers seeking labor. Each office shall, subject to the supervision and direction of the director of the bureau of employment, be in charge of a superintendent designated by the commissioner.*

Note.— Taken from §§ 66–66-c, without change of substance. The appointment of director and office superintendents covered by new § 11.

§ [66–e] *121.* Reports of superintendents. Each superintendent shall make to the director such periodic reports of applications for labor or employment and all other details of the work of each office, and the expenses of maintaining the same, as the commissioner [of labor] may require.

§ [66-f.] *122.* Advisory committees. The commissioner [of labor] shall appoint for each public employment office an advisory committee, [whose duty it] *which* shall [be to] give the superintendent advice and assistance in connection with the management of such [employment] office. The superintendent shall consult from time to time with the advisory committee attached to his office. Such advisory committee shall be composed of representative employers and employees with a chairman *chosen by the committee* [who shall be agreed upon by a majority of such employers and of such employees]. Vacancies, however caused, shall be filled in the same manner as [the] original appointments. [The] *An* advisory committee[s] may appoint such subcommittees as [they] *it* may deem advisable. At the

request of a majority either of the employers or of the employees on *an* advisory committee[s], the voting on any particular que - tion shall be so conducted that there shall be an equality of voting power between the employers and the employees, notwithstanding the absence of any member. Except as above provided, every question shall be decided by a majority of the members present and voting on that question. The chairman shall have no vote on any question on which the equality of voting power has been claimed.

§ [66-d.] *123.* Registration of applicants. The superintendent of every public employment office shall receive applications from those seeking employment and from those seeking employees and shall register every applicant on properly arranged cards or forms provided by the commissioner [of labor].

§ [66-l.] *124.* Advertising. The commissioner [of labor] shall have power to solicit business for the public employment offices established under this [article] *title* by advertising in newspapers and in any other way that he may deem [expedient, and to take any other steps that he may deem] necessary to insure the success and efficiency of such offices; provided, that the expenditure under this section for advertising shall not exceed five per centum of the total expenditure for the purposes of this [article] *title.*

§ [66-m.] *125.* Service to be free. No fees direct or indirect shall in any case be charged to or received from those seeking the benefits of this [article] *title.*

§ [66-j] *126.* Juveniles. Applicants for employment who are between the ages of fourteen and eighteen years shall register upon special forms provided by the commissioner [of labor]. Such applicants upon securing their employment certificates as required by law, may be permitted to register at a public or other recognized school and when forms containing such applications are transmitted to a public employment office they shall be treated as equivalent to personal registration. The superintendent of each public employment office shall co-operate with the school principals in endeavoring to secure suitable positions for children who are leaving the schools to begin work. [To this end he] *He* shall transmit to the school principals a sufficient number of application forms to enable all pupils to register who desire to do so; and such principals shall acquaint the teachers and pupils with the purpose of the public employment office in placing juveniles.

The advisory committee shall appoint special committees on juvenile employment which shall include employers, workmen, and persons possessing experience or knowledge of education, or of other conditions affecting juveniles. It shall be the duty of these special committees to give advice with regard to the management of the public employment offices to which they are attached in regard to juvenile applicants for employment. Such committees may take steps either by themselves or in co-operation with other bodies or persons to given information, advice and assistance to boys and girls and their parents with respect to the choice of employment and other matters bearing thereon.

§ [66-k] *127.* Co-operation of public employment offices. The commissioner [of labor] shall arrange for the co-operation of the offices created under this [article] *title* in order to facilitate, when advisable, the transfer of applicants for work from places where there is an oversupply of labor to places where there is a demand. [To this end he] *He* shall cause lists of vacancies furnished to the several offices, as herein provided, to be prepared and shall supply them to newspapers and other agencies for disseminating information, in his discretion, and to the superintendents of the public employment offices. The superintendent shall post these lists in conspicuous places, so that they may be open to public inspection.

§ [66-o] *128.* Labor market bulletin. The bureau of statistics and information [of the department of labor] shall publish a bulletin in which shall be made public all possible information with regard to the state of the labor market including reports of the business of the various public employment offices.

§ [66-p] *129.* Information from employment agencies. For the purposes specified in the foregoing section every employment office or agency, other than those established under this [article,] *title,* shall keep a register of applicants for work and applicants for help in such form as may be required by the commissioner [of labor] in order to afford the same information as that supplied by state offices. Such register shall be subject to inspection by the commissioner [of labor] and information therefrom shall be furnished to him at such times and in such form as he may require.

§ [66-g] *130.* Notice of strikes or lockouts. An employer, or a representative of employers or employees may file at a public employment office a signed statement with regard to the existence of a strike or lockout affecting their trade. Such a statement shall be exhibited in the employment office, but not until it has

been communicated to the employers affected, if filed by employees, or to the employees affected, if filed by employers. In case of a reply being received to such a statement, it shall also be exhibited in the employment office. If any employer affected by a statement notifies the public employment office of a vacancy or vacancies, the officer in charge shall advise any applicant for such vacancy or vacancies of the statements that have been made.

§ [66-h] *131.* Applicants not to be disqualified. No person shall suffer any disqualification or be otherwise prejudiced on account of refusing to accept employment found for him through a public employment office, where the ground of refusal is that a strike or lockout exists which affects the work, or that the wages are lower than those current in the trade in that particular district or section where the employment is offered.

§ [66-n] *132.* Penalties. Any superintendent or clerk, subordinate or appointee, appointed under this [article,] *title* who shall accept directly or indirectly any fee, compensation or gratuity from any one seeking employment or labor under this [article,] *title* shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in jail for a term not exceeding six months, or both, and shall thereafter be disqualified from holding any office or position in such bureau.

ARTICLE [2] *3.*

GENERAL PROVISIONS.

[Section 3. Hours to constitute a day's work.
4. Violations of the labor law.
5. Hours of labor in brickyards.
6. Hours of labor on street surface and elevated railroads.
7. Regulation of hours of labor on steam surface and other railroads.
8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
8a. One day of rest in seven.
9. Payment of wages by receivers.
10. Cash payment of wages.
11. When wages are to be paid.
12. Penalty for violation of preceding section.
13. Assignment of future wages.

14. Preference in employment of persons upon public works.
15. Labels, brands and marks used by labor organizations.
16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.
17. Seats for female employees.
18. Scaffolding for use of employees.
19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
20. Protection of persons employed on buildings in cities.
20a. Accidents to be reported.
20b. Protection of employees.
20c. Switchboards to be protected.
21. Commissioner of labor to enforce provisions of article.
22. Physical examination of employees.
22. Duties relative to apprentices.]

Section 140. General duty to protect health and safety of employees.
141. Protection of employees at switchboards.
142. Prohibition against eating meals in certain workrooms.
143. Registration of places of employment.
144. Employers' report of accidents to employees.
145. Physicians' report of industrial poisonings.
146. Laws to be posted.
147. Labels, brands and marks used by labor organizations.
148. Illegal use of labels, brands and marks; injunction proceedings.

§ [20-b.] *140.* [Protection of employees.] *General duty to protect health and safety of employees.* All [factories, factory buildings, mercantile establishments and other] places to which this chapter [is applicable,] *applies* shall be so constructed, equipped, arranged, operated and conducted [in all respects] as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein *or frequenting the same.* The industrial board shall [, from time to time,] make [such] rules [and regulations as will] *to* carry into effect the provisions of this section.

§ [20-b.] *141.* [Switchboards to be protected.] *Protection of employees at switchboards.* [All buildings having installed therein a] *At every main or distributing* switchboard of two hundred and twenty *or more* volts [or over shall have, on the floor or upon such platform or other standing place as the switchboard may be located or attached,] *there shall be maintained* [a rubber] *an insulating* [mat] *surface* the length of the switchboard and of sufficient width *and so placed as* to allow a person to *stand or* walk [or stand] thereon while working at the switchboard or making tests.

§ [89-a.] *142.* Prohibition against eating meals in certain workrooms. No employee shall take or be permitted to take any food into a room [or apartment] in a factory, *or* mercantile establishment, [mill or workshop, commercial institution or other establishment or working place] where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases exist in harmful conditions or are present in harmful quantities. [as an incident or result of the business conducted by such factory, commercial establishment, mill or workshop, commercial institution or other establishment or working place; and [n]*N*otice to the foregoing effect shall be *kept* posted in each such room[, or apartment]. No employee, unless his presence is necessary for the proper conduct of the business, shall remain in any such room[, apartment or enclosure] during the time allowed for meals, and [suitable provision shall be made and maintained by the employer for enabling employees to take their meals elsewhere in such establishment.] *the employer shall provide a suitable place in such establishment for his employees to eat their meals.*

§ [69.] *143.* Registration of [factories] *places of employment.* [The owner of every factory shall register such factory with the state department of labor, giving the name of the owner, his home address, the address of the business, the name under which it is carried on, the number of employees and such other data as the commissioner of labor may require. Such registration of existing factories shall be made within six months after this section takes effect. Factories hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory the owner thereof shall file with the commissioner of labor the new address of the business, together with such other information as the commissioner of labor may require.] *Every employer, except those affected by sections three hundred and seventy and three hundred*

and seventy-one, employing persons who are affected by any of the provisions of this chapter shall, within thirty days after employment begins, register the place of employment with the commissioner, giving his name, his home address, the address of the business, the name under which it is carried on, the number of employees and such other data as the commissioner may require. Within thirty days after a change in the location of any such place of employment, the employer shall file the new address with the commissioner, together with such other information as the commissioner may require. When any such place of employment is permanently discontinued, the former employer shall notify the commissioner. All such places of employment, existing when this section takes effect, shall be registered within thirty days thereafter.

Note.— Present law limited to factories. This section extends provision for registration to all employees subject to the chapter except operators of mines, tunnels and quarries. Latter covered by new § 370.

§ *144. Employers' report of accidents to employees. Every employer of labor affected by the provisions of this chapter shall keep a record of every accident which causes personal injury to or the death of any of his employees in the course of their employment. The record shall be in such form and shall contain such information as the commissioner may require. Within forty-eight hours after any such accident, the employer shall send to the commissioner a report thereof stating the name, address and business of the employer; the name, address, sex, age, nationality and occupation of the employee; time, place and cause of the accident; the nature of the injury and the probable extent of disability; the number of days which the employee had worked for such employer at the employment in which he was injured; whether he was paid at the time of the accident on the basis of time or output; the rate of the employee's wages immediately preceding the accident, and such other information as may be required by the commissioner. Subsequent reports of the results of the accident and of the condition of the injured employee shall be sent by the employer to the commissioner at such times and shall contain such information as he may require. Reports made under this section shall not be evidence of the facts therein stated in any action arising out of the accident therein reported.*

Note.— Taken from old §§ 20-a, 87 and 126, omitting the portions of such sections covered by other provisions of the new law. The provisions for subsequent reports of the result of the accident and of the condition of the employee are new.

§ [65] *145. Physicians' reports of* industrial poisoning[s to be reported]. 1. Every [medical practitioner] *physician* attending [on or called in to visit a patient] *any person* whom he believes to be suffering from poisoning [from] *by* lead, phosphorus, arsenic, brass, wood alcohol, mercury or their compounds, or from anthrax, or [from] compressed air illness, contracted as the result of the nature of [the patient's] *such person's* employment, shall send to the commissioner [of labor] a [notice] *report* stating the name and [full postal] address and place of employment of [the patient] *such person* and the disease from which[, in the opinion of the medical practitioner, the patient] *he* is suffering, with such [other and] further information as may be required by the [said] commissioner.

[2. If any medical practitioner, when required by this section to send a notice, fails forthwith to send the same, he shall be liable to a fine not exceeding ten dollars.]

[3] *2.* [It shall be the duty of the commissioner of labor to enforce the provisions of this section, and he] *The commissioner* may call upon the state and local boards of health for assistance *in the enforcement of the provisions of this section.*

Note.— Old § 65, sub. 2, covered by new § 405.

§ [99-a.] *146.* Laws to be posted. [Copies or digests of the provisions of this chapter and of the rules and regulations of the industrial board, applicable thereto, in English and in such other languages as the commissioner of labor may require, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in such conspicuous place or places as the commissioner of labor may direct on each floor of every factory where persons are employed who are affected by the provisions thereof.] *Wherever persons are employed who are affected by the provisions of this chapter or the rules of the industrial board, the commissioner shall furnish to the employer copies or abstracts of all such provisions and rules affecting such persons. The copies or abstracts shall be in such languages as the commissioner may require and shall be kept posted by the employer in conspicuous places on the premises.*

Note.— Rewritten without change of substance. Covers also old § 173.

§ [15.] *147.* Labels, brands and marks used by labor organizations. A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for

the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed [in the office of] *with* the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

§ [16] *148.* Illegal use of labels, brands and marks [a misdemeanor]; injunction proceedings. [A] *No* person [who, (1)] shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in [the preceding] section *one hundred and forty-seven,* without the consent or authority of such union or association; or [(2) shall] counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sell[s] or dispose[s] of, or keep[s] or [has] *have* in his possession with intent to sell or dispose of, any goods, wares, merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sell[s] or dispose[s] of, or keep[s] or [has] *have* in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed.[, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment.] After filing copies of such device, [such] *the* union or association may [also] maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

ARTICLE 4.

EMPLOYMENT OF CHILDREN AND FEMALES.

Section 160. Employment of children under the age of fourteen years prohibited.
161. Employment of children between the ages of fourteen and sixteen years.
162. Employment certificates; how issued.
163. Evidence of age.
164. Physical examination before issuance of employment certificate.
165. Examination by officer issuing employment certificate.
166. Contents of employment certificate.
167. Supervision over issuance of employment certificates.
168. Registers of children employed.
169. Employment of children apparently under the age of sixteen years.
170. Prohibited employment of children and females.
171. Employment of females in core rooms.
172. Prohibited employment of females after child birth.
173. Physical examination of children employed.
174. Physical examination of females.
175. Seats for female employees.

§ [70] *160.* Employment of [minors] *children under the age of fourteen years prohibited.* No child under the age of fourteen years shall be employed[, permitted or suffered to work] in or in connection with [any factory in this state,] or for any factory, [at any place in this state.] *mercantile establishment, business office, telegraph office, restaurant, hotel, apartment-house, theatre or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the sale of articles.*

[No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child.] Nothing [herein] contained *in this section or in section one hundred and sixty-one* shall prevent a person engaged in farming from permitting his children to do farm work for him upon his farm. Boys over the age of twelve years may be employed in gathering produce, for not more than

six hours in any [one] day, subject to the requirements of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," and all acts amendatory thereof.

Note.— Taken from old § 70, as to factories, and § 162, as to mercantile and other establishments. Old § 70, second sentence as to children between 14 and 16, covered by new § 161.

§ *161. Employment of children between the ages of fourteen and sixteen. No child between the ages of fourteen and sixteen years shall be employed in or in connection with or for any factory, mercantile or other establishment or business specified in section one hundred and sixty unless an employment certificate, issued as provided in this article, is kept on file in the office of the employer at the place of employment of the child.*

On termination of the employment, the certificate shall, except where it has been cancelled under the provisions of section one hundred and seventy-three, be surrendered by the employer to the child or its parent, guardian or custodian.

Note.— First paragraph taken from old § 70, and § 162; second paragraph taken from old § 76 and § 167.

§ [71] *162.* Employment certificate, how issued. [Such] *The employment* certificate *required in section one hundred and sixty-one* shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent, [or] guardian or custodian of the child desiring [such] employment. Such officer shall not issue [such] *the* certificate until he has received, examined, approved and filed the following papers duly executed: [, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivision can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child.

Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. In every case, before an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank

to be furnished for the purpose by the state commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require.]

1. *The evidence of age of the child.*

2. *The record of the physical examination of the child.*

3. *The child's school record certificate which shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language and has received during such period instruction in reading, writing, spelling, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions, and has completed the work prescribed for the first six years of the public elementary school, or school equivalent thereto, or parochial school, from which such school record is issued. Such record shall also give the date of birth and residence of the child, as shown on the school records, and the name of the child's parents, guardian or custodian.*

Note.— Taken from old § 70, preliminary paragraph, and old § 163, preliminary paragraph. Old § 71, subs. a-e, except last three sentences, covered by new § 163. Old § 71, second and third sentences from end requiring children to personally appear, etc., covered by new §§ 165 and 166. Old § 71, last sentence, covered by new § 164.

§ *163. Evidence of age. The evidence of age shall show that the child is over the age of fourteen years, and shall be as provided in one of the following subdivisions:*

1. *Birth certificate; passport or baptismal certificate. A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births; or a passport or a duly attested transcript of a certificate of baptism.*

2. *Certificate of graduation. A certification of graduation showing that such child is a graduate of a public school having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years, in which a record of the attendance of such child has been kept as required by article twenty of the education law.*

3. *Other documentary evidence. If the child, for whom an application for an employment certificate is made, is apparently over the age of fourteen years and has presented his school record certificate, and if satisfactory documentary evidence of age can be produced which does not fall within any of the preceding subdivisions of this section, and none of the papers mentioned in the preceding subdivision can be produced then and not otherwise, the officer issuing employment certificates shall present to the board of health of which he is an officer or agent, a statement signed by him showing such facts, together with such papers as may have been received by him constituting such evidence. The commissioner of health or the executive officer of the board or department of health may then accept such evidence as sufficient as to the age of such child, and such evidence shall be fully entered on the minutes of the board at the next meeting thereof.*

4. *Physicians' certificates. In cities of the first class only, if the child, for whom an application for an employment certificate is made, is apparently over the age of fourteen years the officer issuing employment certificates may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. The application for physicians' certificates shall contain the name, place and date of birth, and residence of the child, together with such further facts as may be of assistance in determining the age of such child, and shall remain on file for not less than sixty days. An examination shall be made of the statements contained therein, and if no facts appear within such period or by such examination tending to discredit or contradict any material statement in the application, the officer shall direct the child to appear thereafter for physical examination before two physicians designated by the board of health. If the physicians certify in writing that they have separately examined the child and that in their opinion the child is over the age of fourteen years such certificates shall be sufficient evidence as to the age of such child. If the opinions of the physicians do not concur, the child shall be examined by a third physician designated by the board of health and the concurring opinions shall be sufficient evidence as to the age of such child.*

The officer issuing employment certificates shall require the evidence of age in the order hereinabove designated and shall not accept the evidence permitted by any subdivision, other than subdivision one, unless he receives and files in addition thereto an

affidavit of the parent, guardian or custodian of the child stating that no evidence specified in any preceding subdivision can be produced. Such affidavit shall contain the name, place and date of birth, and residence of the child, and shall be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor.

Note.— Taken from old § 71, subs. a-e, and § 163, subs. a-e, without change of substance.

§ *164. Physical examination before issuance of employment certificate. A medical officer of the department or board of health shall make a thorough physical examination of every child for whom an application for an employment certificate is made. He shall record the result of such examination and such other facts concerning the child's physical condition and history as the commissioner may require on blanks to be prepared and furnished by the commissioner, and shall sign the record so made. The medical officer shall file such record with the officer issuing employment certificates, and no employment certificate shall be issued unless such record states that the child is normally developed for a child of its age and is in sound health and physically fit to work.*

Note.— Taken from old § 71, sub. e, and § 163, sub. e, without change of substance.

§ *165. Examination by officer issuing employment certificates. No employment certificate shall be issued for any child unless the child has personally appeared before and been examined by the officer issuing the certificate, and unless such officer has, after making the examination, signed and filed in his office a statement that in his opinion the child is over the age of fourteen years and has reached the normal development of a child of its age, and is in sound health and is physically fit to work, and that it can read and legibly write correctly simple sentences in the English language.*

Note.— Taken from old § 71, sub. e, and § 163, sub. e, without change of substance.

§ [72] *166.* Contents of *employment* certificate. [Such] *The employment* certificate shall *contain the name, sex, nationality,* [state] the date and place of birth, [of the child, and describe the color of the hair and eyes,] the height and weight, *the color of hair*

and eyes and any distinguishing [facial] *physical* marks of [such] *the* child, and *shall certify* that the papers required by [the preceding] section *one hundred and sixty-two* have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined. *It shall bear the date of its issue, and shall be signed by the officer issuing it and, in his presence, by the child for whom it is issued.*

Note.— Also covers old § 164. Last sentence taken from old § 71, sub. e, and § 163, sub. e.

§ [75] *167.* Supervision over issuance of *employment* certificates. [The board or department of health or health commissioner of a city, village or town,] *The officer issuing employment certificates* shall transmit, [between the first and] *on or before the* tenth day of each month, to the commissioner [of labor,] a list of the names of all children [to] *for* whom certificates have been issued during the preceding month, together with a duplicate [of the] record of [every] *all physical* examinations [as to the physical fitness,] *made under section one hundred and sixty-four* including examinations resulting in rejection. In cities of the first and second class all employment certificates and school record[s] *certificates* required [under the provisions of] *by* this chapter shall be in [such] *a* form [as shall be] approved by the commissioner, [of labor. In towns, villages or cities other than cities of the first or second class, the commissioner of labor shall prepare and furnish blank forms for such employment certificates and school records.] *and elsewhere they shall be on blank forms prepared and furnished by him.* No [school record or] employment certificate *or school record certificate* required by this [article,] *chapter,* other than those approved or furnished by the commissioner [of labor] as above provided, shall be used. The commissioner [of labor] shall inquire into the administration and enforcement of the provisions of this article by all public officers charged with the duty of issuing employment certificates, and for that purpose the commissioner [of labor] shall have access to all papers and records required to be kept by all such officers.

Note.—Also covers old § 166.

§ [76] *168.* Regist[ry]*ers* of children employed. [Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a

register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, said certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.] *The employer of children for whom employment certificates have been issued shall keep a register which shall contain the name,*

sex, nationality, date and place of birth, and place of residence of every child so employed. The register and the employment certificate kept on file in accord with section one hundred and sixty-one shall be produced for inspection upon the demand of the commissioner.

Note.— Taken from old §§ 76 and 167, in part, without change of substance. Old § 76, third sentence, in regard to transfer of certificate, covered by new § 161. The remainder of old § 76 is covered by new § 169.

§ 169. Employment of children apparently under the age of sixteen years. 1. If any child, apparently under the age of sixteen years, is employed in or in connection with or for any factory, mercantile or other establishment or business specified in section one hundred and sixty and no employment certificate for such child is on file with the employer, the commissioner may demand that the employer of such child shall furnish within ten days after demand evidence satisfactory to the commissioner that the child is over the age of sixteen years, or that he shall cease to employ the child. The commissioner shall require the age of the child to be established in the manner prescribed in section one hundred and sixty-three and the employer furnishing evidence in such manner shall not be required to furnish any further evidence of the age of the child. The papers constituting such evidence shall be filed with the commissioner.

2. The demand for evidence may be served personally upon the employer or, if the employer is a corporation, upon an officer thereof, or it may be sent by mail addressed to the employer at the factory or mercantile or other establishment or, if the employer is a corporation, addressed to the office or principal place of business thereof. If it is sent by mail, it shall be deemed to have been served at the time when the letter containing the same should have been delivered in the ordinary course of the mail.

3. If the employer fails to furnish such evidence within ten days after demand, and, after such ten days, continues to employ the child in or in connection with or for any factory, mercantile or other establishment or business specified in section one hundred and sixty, proof of the service of the demand and of the failure to furnish such evidence shall, in any prosecution brought for a violation of this article, be prima facie evidence that such child is under the age of sixteen years and is unlawfully employed.

Note.— Taken from old §§ 76 and 167, rewritten without change of substance.

§ [93] *170.* Prohibited employment of [women and] children *and females.* 1. No child under the age of sixteen years shall be employed [or permitted to work] in operating or assisting in operating any of the following machines:

a. [c]*C*ircular or band saws, woodshapers, woodjointers, planers, sandpaper or woodpolishing machinery;

b. [p]*P*icker machines or machines used in picking wool, cotton, hair or any upholstery material;

c. [p]*P*aper lace machines;

d. [b]*B*urnishing machines in any tannery or leather [manu-] factory;

e. [j]*J*ob or cylinder printing presses having motive power other than foot;

f. [w]*W*ood-turning or boring machinery;

g. [d]*D*rill presses;

h. [m]*M*etal or paper cutting machines;

i. [c]*C*orner staying machines in paper box factories;

j. [s]*S*tamping machines used in sheet metal and tinware manufacturing or in washer and nut factories;

k. [m]*M*achines used in making corrugating rolls;

l. [s]*S*team boilers;

m. [d]*D*ough brakes or cracker machinery [of any description];

n. [w]*W*ire or iron straightening machinery;

o. [r]*R*olling mill machinery;

p. [p]*P*ower punches or shears;

q. [w]*W*ashing, grinding or mixing machinery;

r. [c]*C*alendar rolls in rubber manufacturing;

s. [or l]*L*aundering machinery; [or in operating or assisting in operating]

t. [a]*A*ny other [machines or] machinery [which may be] found by the industrial board to be dangerous and *so* specified [as such from time to time] in *its* rules [and regulations adopted by such board].

2. No child under the age of sixteen years shall be employed [or permitted to work at] *in:*

a. [a]*A*djusting or assisting in adjusting any belt to any machinery;

b. [o]*O*iling or assisting in oiling, wiping or cleaning machinery;

[or in any capacity in]

c. [p]*P*reparing any composition in which dangerous or poisonous acids are used; [or in]

d. [The manufacture] *Manufacturing* or packing [of] paints, dry colors, or red or white lead; [or]

e. [d]*D*ipping or dyeing matches; [or in]

f. [The manufacture,] *Manufacturing,* packing or storing [of] powder, dynamite, nitroglycerine compounds, fuses, or other explosives; [or in]

g. [o]*O*r about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped, or bottled; [and no]

3. No female under the age of sixteen shall be employed [or permitted to work] in any capacity where such employment compels her to [remain standing] *stand* constantly.

4. No child under the age of sixteen years shall be employed [or permitted] to have the care[, custody] or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed [or permitted] to have the care[, custody] or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute.

5. No male [person] under *the age of* eighteen years [or woman] *nor any female* under twenty-one years of age shall be [permitted or directed] *employed or directed* to clean machinery while *it is* in motion.

6. No male [child] under the age of eighteen years, nor any female, shall be employed in any factory [in this state] in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or [any] *other* abrasive, or emery polishing or buffing wheel, [where articles of the baser metals or of iridium are manufactured] *in the manufacture of articles of the baser metals or iridium.*

7. No child under the age of sixteen years shall be employed in or in connection with any mine or quarry nor shall any female be employed in any mine or quarry.

[3]*8.* In addition to the cases provided for in the foregoing subdivisions, the industrial board, when [as a result of its investigations] it finds that any particular trade, process of manufacture, or occupation, or particular method of carrying on any trade, process of manufacture, or occupation, is dangerous or injurious to the health of minors under eighteen years of age employed

therein, [shall have power to] *may* adopt rules [and regulations] prohibiting or regulating the employment of such minors therein.

[4. No female shall be employed or permitted to work in any brass, iron or steel foundry, at or in connection with the making of cores where the oven in which the cores are baked is located and is in operation in the same room or space in which the cores are made. The erection of a partition separating the oven from the space where the cores are made shall not be sufficient unless the said partition extends from the floor to the ceiling, and the partition is so constructed and arranged, and any openings therein so protected that the gases and fumes from the core oven will not enter the room or space in which the women are employed. The industrial board shall have power to adopt rules and regulations regulating the construction, equipment, maintenance and operation of core rooms and the size and weight of cores that may be handled by women, so as to protect the health and safety of women employed in core rooms.]

Note.—Subdivision 1 taken from old § 93, sub. 1. Subdivisions 2, 3, 4, 5 and 6 taken from old § 93, sub. 2. Subdivision 7 taken from old § 131. Subdivision 8 taken from old § 93, sub. 3. Old § 93, sub. 4, made new § 171.

§ *171. Employment of females in core-rooms. No female shall be employed in any foundry, at or in connection with the making of cores where the oven in which the cores are baked is located and is in operation in the same room or space in which the cores are made. The erection of a partition separating the oven from the space where the cores are made shall not be sufficient unless the partition extends from the floor to the ceiling, and the partition is so constructed and arranged, and any openings therein so protected that the gases and fumes from the core oven will not enter the room or space in which the women are employed. The industrial board shall adopt rules regulating the construction, equipment, maintenance and operation of core-rooms and the size and weight of cores that may be handled by women.*

Note.—Taken from old § 93, sub. 4.

§ [93-a] *172. Prohibited* [E]employment of females after childbirth [prohibited]. [It shall be unlawful for the] *No* owner, proprietor, manager, foreman or other person in authority [of] *in* any factory, *or* mercantile establishment[, mill or workshop to] *shall* knowingly employ a female or permit a female to be employed therein within four weeks after she has given birth to a child.

§ [76-a] *173.* Physical examination of children [in factories; cancellation of employment certificates.] *employed.* 1. [All children] *Whenever required by the commissioner, every child* between *the ages of* fourteen and sixteen years [of age] employed in [factories] *establishments specified in section one hundred and sixty for whom an employment certificate has been issued* shall submit to a physical examination [whenever required] by a medical inspector of the [state] department [of labor]. The result of [all] such [physical] examinations shall be recorded on blanks [furnished for that purpose by the commissioner of labor,] and [shall be] kept on file in [such office or offices of] the department [as the commissioner of labor may designate].

2. If any such child [shall] fails to submit to such [physical] examination, *or if on examination the inspector finds the child physically unfit to be employed, he shall submit a report to that effect, and* the commissioner [of labor] may *then* issue an order cancelling [such] *the* child's employment certificate. Such order shall be served upon the *child's* employer [of such child] who shall forthwith deliver to [an authorized representative of] the department [of labor] the child's employment certificate. A certified copy of the order [of cancellation] shall be served on the board of health or other local authority that issued the [said] certificate. [No such child whose employment certificate has been cancelled, as aforesaid, shall, while said cancellation remains unrevoked, be permitted or suffered to work in any factory of the state before it attains the age of sixteen years.]

3. If [thereafter such] *a* child [shall] *who has refused subsequently* submits to the physical examination required, *and is found to be in proper physical condition to be employed* [the commissioner of labor may issue an order revoking the cancellation of the employment certificate and may return the employment certificate to such child. Copies of the order of revocation shall be served upon the former employer of the child and the local board of health as aforesaid. 3. If as a result of the physical examination made by a medical inspector it appears that the child is physically unfit to be employed in a factory, such medical inspector shall forthwith submit a report to that effect to the commissioner of labor which shall be kept on file in the office of the commissioner of labor, setting forth in detail his reasons therefor, and the commissioner of labor may issue an order cancelling the employment certificate of such child. Such order of cancellation shall be served, and the child's employment certificate delivered up, as provided in subdivision two hereof, and

no such child while the said order of cancellation remains unrevoked shall be permitted or suffered to work in any factory of the state before it attains the age of sixteen years. If] *or if* upon a subsequent physical examination of [the] *any* child [by a medical] *the* inspector [of the department of labor it appears] *finds* [that the physical infirmities have been removed,] *it is in fit condition to be employed* [such medical inspector shall certify to that effect to the commissioner of labor, and] the commissioner [of labor] may [thereupon make] *file in the department* an order revoking [the] *such* cancellation [of the employment certificate] and may return the certificate to [such] *the* child. *A certified copy of* the order [of revocation] shall be served [in the manner provided in subdivision two hereof.] *on the board of health or other local authority that issued the certificate.*

Note.— Taken from old § 76-a. Applicable to factories only and extended to all establishments in which an employment certificate is required.

§ *174. Physical examination of females. Whenever a female is required to submit to a physical examination by a physician or surgeon, except under the provisions of sections one hundred and sixty-three and one hundred and sixty-four she shall be entitled to have the examination made by a person of her own sex. No employer shall require a female to submit to physical examination by a person not of her own sex.*

Note.— Taken from old § 22. The penalty provision of old § 22 omitted as unnecessary, being covered by new § 405.

§ [17] *175.* Seats for female employees. [Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats, with proper backs where practicable, for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health. Where females are engaged in work which can be properly performed in a sitting posture, suitable seats, with backs where practicable, shall be supplied in every factory for the use of all such female employees and permitted to be used at such work. The industrial board may determine when seats, with or without backs, are necessary and the number thereof.] *A sufficient number of chairs, stools or other suitable seats, with backs where practicable, shall be provided and maintained in every factory, mercantile*

establishment, hotel and restaurant for the use of the female employees therein, who shall be allowed to use the seats to such an extent as may be reasonable for the preservation of their health. In factories, female employees shall be allowed to use such seats whenever they are engaged in work which can be properly performed in a sitting posture. In mercantile establishments, at least one seat shall be provided for every three female employees and if the duties of such employees are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof, or if such duties are to be principally performed behind such table, desk or fixture, such seats shall be placed behind the same.

Note.— Rewritten from old § 17 and also covers old § 170 relating to mercantile establishments.

ARTICLE 5.

HOURS OF LABOR.

TITLE I. GENERAL.

Section 180. Hours to constitute a day's work.
181. Brickyards.
182. Street railroads.
183. Steam and other railroads.
184. Signalmen.
185. Messengers.
186. Time allowed for meals.
187. One day of rest in seven.

TITLE II. FACTORIES.

Section 195. Children under sixteen.
196. Males between sixteen and eighteen.
197. Females over sixteen.
198. Females over eighteen in canneries.
199. Period of rest at night for women.
200. Enforcement of this title.

TITLE III. MERCANTILE AND OTHER ESTABLISHMENTS.

Section 205. Children under sixteen.
206. Females over sixteen.

TITLE I. GENERAL.

§ 180. Hours to constitute a day's work. Unless otherwise provided by law, the following number of hours shall constitute a legal day's work:

1. For street surface and elevated railroad employees affected by section one hundred and eighty-two, ten consecutive hours, including one-half hour for dinner.

2. For employees engaged in the operation of steam or electric surface, subway or elevated railroads where the mileage system of running trains is not in use, except those employees affected by section one hundred and eighty-four, ten hours, performed wilhin twelve consecutive hours.

3. For all other employees, except those engaged in farm or domestic service and those affected by subdivision four of section two hundred and fifteen, eight hours.

This subdivision does not prevent an agreement for overwork at an increased compensation, except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith and except as otherwise provided in this chapter.

Note.— Subdivision 1 taken from old § 6; subdivision 2 taken from old § 7; subdivision 3 taken from old § 3. The provisions affecting public work have been transferred to article 7.

§ [5] *181.* Hours of labor in brickyards. Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

§ [6] *182.* [Hours of labor on s]*S*treet [surface and elevated] railroads. [Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours. In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.] *Except in cases of accident or unavoidable delay, no employee engaged in the operation of a street surface or elevated railroad of whatever motive power, owned or*

operated by a corporation, whose main line or route of travel lies principally within a city of the first or second class, shall be employed more than ten consecutive hours, including one-half hour for dinner, in any day.

Note.— Taken from old § 6. The first two sentences of old § 6 now covered by §§ 180 and 182.

§ [7] *183.* [Regulation of hours of labor on s]*Steam* [surface] and other railroads. [Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface, electric, subway and elevated railroads operated within the state, except where the mileage system of running trains is in operation.] *1.* No person or corporation operating any [such] *steam or electric surface, subway or elevated* railroad of thirty miles *or more* in length, [or over, in whole or in part] *wholly or partly* within this state, *except where the mileage system of running trains is in operation,* shall permit or require any conductor, engineer, fireman, trainman, motorman or assistant motorman, engaged in or connected with the movement of any train on [any] such railroad, to be or remain on duty for a longer period than sixteen consecutive hours.[, and w]*Whenever* any such [conductor, engineer, fireman, trainman, motorman or assistant motorman] *employee* shall have been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty until he has had at least ten consecutive hours off duty.[, and n]*No* such [conductor, engineer, fireman, trainman, motorman or assistant motorman] *employee* who has been on duty sixteen hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty. [, except]

2. This section does not apply to any such employee when *(a)* by casualty occurring after he [has] started on his trip, [and except when] *or (b) by unknown casualty occurring before he started on his trip, or (c)* by accident *to* or unexpected delay of trains scheduled to make connection with the train on which he is serving, he is prevented from reaching his terminal. [The commissioner of labor shall appoint a sufficient number of inspectors to enforce the provisions of this section.]

Note.— Taken from old § 7, except that the provisions as to what shall constitute a legal day's work are covered by new § 180. The last sentence of old section 7 is covered by new § 11.

§ [8] *184.* [Regulation of hours of labor of block system telegraph and telephone operators and s]Signalmen. [on surface, subway and elevated railroads. The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person who is employed as signalman, towerman, gateman, telegraph or telephone operator in a railroad signal tower or public railroad station to receive or transmit a telegraphic or telephonic message or train order for the movement of trains and who works eight hours or more in any twenty-four each and every day continuously, and all gatemen so employed must have at least two days of twenty-four hours each in every calendar month for rest with the regular compensation; subject to the foregoing provisions relating to extra service in cases of emergency. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this sec-

tion, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight.]

1. The term "signalman" when used in this section means:

a. A telegraph, telephone or wireless operator who reports trains to another office or to a train dispatcher operating one or more trains under signals.

b. A telegraph or telephone leverman who manipulates interlocking machines in railroad yards or on main tracks out on the lines.

c. A train dispatcher whose duties pertain to the movement of cars, engines or trains, by use of the telegraph, telephone or wireless in dispatching or reporting trains or receiving or transmitting train orders.

2. The term "railroad" when used in this section means any portion of a surface, subway or elevated railroad situated wholly or partly in this state and operated by a corporation or receiver on which portion at least twenty freight trains on the average or nine regular passenger trains pass each way in every twenty-four hours.

3. No signalman shall be employed on any railroad for more than eight hours in any day except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property and he shall be paid for each hour of such overtime at least one-eighth of his daily compensation.

4. Every signalman and every towerman or gateman performing duties similar to those of a signalman, who is employed for eight hours or more every day shall be allowed at least two days of rest of twenty-four hours each in every calendar month with the regular compensation, except in cases of extraordinary emergency caused by accident, fire, flood, or danger to life or property.

Note.— The first sentence of old § 8 has been transferred to new § 180. The provision of old § 8 as to penalty covered by new § 405 words "or wireless" new in sub. 1-a and c.

§ [161-a.] *185.* [Hours of labor of m]*M*essengers. In cities of the first or second class no person under the age of twenty-one years shall be employed [or permitted to work] as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening [of any day].

§ [89] *186.* Time allowed for meals. *Every person employed* in [each] *or in connection with any* factory, *shall be allowed* at least sixty minutes [shall be allowed] for the noonday meal, unless the commissioner [of labor] shall permit a shorter time. Such permit [must] *shall* be in writing and *shall be kept* conspicuously posted in the main entrance of the [factory,] *establishment* [and] *but it* may be revoked at any time. *Every person employed in or in connection with any mercantile or other establishment specified in section one hundred and sixty shall be allowed at least forty-five minutes for the noon-day meal.* Where [employees are required or permitted to work] *any person is employed* [overtime for more than one hour] after [six] *seven* o'clock in the evening, [they] *he* shall be allowed at least twenty minutes to obtain a lunch, *or supper between five and seven o'clock in the evening* [before beginning to work overtime].

Note.— Taken from old § 89. It also covers old § 161, relating to mercantile establishments.

§ [8-a] *187.* One day of rest in seven. 1. Every employer [of labor engaged in carrying on any] *operating a* factory or mercantile establishment [in this state] shall allow every person, except those specified in subdivision two, employed in such factory or mercantile establishment at least twenty-four consecutive hours of rest in every [seven consecutive days.] *calendar week provided that no more than eight days intervene between such days of rest.* No employer shall operate any such factory or mercantile establishment on Sunday unless he [shall have] *has* complied with subdivision three. [Provided, however, that t]*T*his section [shall] *does* not authorize any work on Sunday not now or hereafter authorized by law.

2. [This section shall not apply to

(a) Janitors;

(b) Watchmen;

(c) Employees whose duties include not more than three hours' work on Sunday in (1) setting sponges in bakeries; (2) caring for live animals; (3) maintaining fires; (4) necessary repairs to boilers or machinery.

(d) Superintendents or foremen in charge;

(e) Employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day;

(f) Employees in dairies, creameries, milk condensaries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed.] *This section does not apply to males over the age of eighteen years employed as janitors, watchmen, superintendents or foremen in charge, nor to male employees over the age of eighteen years whose duties include not more than three hours' work on Sunday in (a) setting sponges in bakeries; (b) caring for live animals; (c) maintaining fires; (d) making necessary repairs to boilers or machinery; (e) employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day; (f) employees in dairies, creameries, milk condensaries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed.*

3. Before operating on Sunday, every employer shall post in a conspicuous place on the premises a schedule containing a list of his employees who are required or allowed to work on Sunday and designating the day of rest for each, and shall file a copy of such schedule with the commissioner [of labor]. The employer shall promptly file with the [said] commissioner a copy of every change in such schedule. No [employee] *person* shall be [required or allowed to work] *employed* on the day of rest so designated for him.

4. Every employer shall keep [a time-book] *records, in a form approved by the commissioner,* showing the names and addresses of all employees and the hours worked by each of them in each day[, and such time-book shall be open to inspection by the commissioner of labor].

5. The industrial board at any time when the preservation of property, life or health requires, may except specific cases for specified periods from the provisions of this act by written orders

which shall be recorded as public records. *In emergency cases the commissioner may on application grant such exemption.*

Note.— Words "males over the age of eighteen years" added to sub. 2 to continue provision formerly contained in old § 77.

TITLE II. FACTORIES.

§ *195. Children under sixteen. No child under the age of sixteen years shall be employed in or in connection with a factory before eight o'clock in the morning, or after five o'clock in the evening or more than eight hours in any day, or more than six days in any week.*

Note.— Taken from old § 77, sub. 1 and also covers first sentence of § 78.

§ *196. Males between sixteen and eighteen. No male over the age of sixteen years and under the age of eighteen years shall be employed in a factory, except in canning or preserving perishable products between the fifteenth day of June and the fifteenth day of October in each year,*

(*a*) *More than six days or fifty-four hours in any week;*

(*b*) *More than ten hours in any day.*

In no case shall such person be employed between the hours of twelve midnight and four o'clock in the morning.

Note.— Taken from old § 77, sub. 2, and old § 78, subs. 1 and 2. The change from nine hours a day to ten hours a day in sub. (9) is not a change in substance because that was permitted in the provisions of the old law relating to regular and irregular overtime which are here omitted because they are meaningless.

§ *197. Females over sixteen. No female over the age of sixteen years shall be employed in a factory, except as provided in section one hundred and ninety-eight,*

(*a*) *More than six days or fifty-four hours in any week;*

(*b*) *More than ten hours in any day.*

In no case shall a female under the age of twenty-one years be employed in a factory before six o'clock in the morning or after nine o'clock in the evening.

Note.— Taken from old § 77, sub. 3, and old § 78, sub. 1. For explanation of change from nine to ten hours in subdivision (b) see note to preceding section.

§ [78] *198.* [Exceptions] *Females over eighteen in canneries.* [1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory

more than nine hours a day: (a) regularly in not to exceed five days a week, in order to make a short day or holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than ten hours in any one day or more than fifty-four hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. The provisions of subdivision two of section seventy-seven relating to maximum hours shall not apply to the employment of male minors sixteen years of age and upwards in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October each year.

3. A female eighteen years of age or upwards may, notwithstanding the provisions of subdivision three of section seventy-seven of this chapter, be employed in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October in each year not more than six days or sixty hours in any one week nor more than ten hours in any one day; and the industrial board shall have power to adopt rules and regulations permitting the employment of women eighteen years of age and upwards on such work in such establishments between the twenty-fifth day of June and the fifth day of August in each year not more than six days nor more than sixty-six hours in any one week nor more than twelve hours in any one day, if said board shall find that such employment is required by the needs of such industry and can be permitted without serious injury to the health of women so employed. The provisions of this subdivision shall have no application unless the daily hours of labor shall be posted for the information of employees and a time book in a form approved by the commissioner of labor, giving the names and addresses of all female employees and the hours of work by each of them in each day shall be properly and correctly kept and shall be exhibited to him or any of his subordinates promptly upon demand. No person shall knowingly make or permit or suffer to be made a false entry in any such time book.

4. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it.] *A female over the*

age of eighteen years may be employed in canning or preserving perishable products between the fifteenth day of June and the fifteenth day of October in each year not more than ten hours in any day nor more than six days or sixty hours in any week, but the industrial board may adopt rules permitting such employment between the twenty-fifth day of June and the fifth day of August in each year not more than twelve hours in any day nor more than six days or sixty-six hours in any week, if it finds that such employment is required by the needs of the industry and can be permitted without serious injury to the health of the women so employed.

Note.— Taken from old § 78, sub. 3. Old § 78, sub. 1. covered by new §§ 196, 197. Old § 78, sub. 2, covered by new § 196. Old § 78, sub. 3, covered by new § 198.

§ [93-b] *199.* Period of rest at night for women. In order to protect the health and morals of females employed in factories by providing an adequate period of rest at night no woman shall be employed or permitted to work in any factory [in this state] before six o'clock in the morning or after ten o'clock in the evening of any day.

§ [77] *200.* [Hours of labor of children, minors and women] *Enforcement of this title.* [1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week, or for more than nine hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning.

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week; nor for more than nine hours in any one day except as hereinafter provided. No female minor under the age of twenty-one years shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after nine o'clock in the evening of any day.]

[4] *1.* A [printed] notice, [in] *on* a[form which shall be] *blank* furnished by the commissioner [of labor], stating the number of hours per day for each day of the week required of [such] *all* persons *subject to the provisions of this title,* and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. [But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such factory except as stated therein.]

The terms of [such] *the* notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner [of labor]. The presence of *any* such person[s] in the factory at any other hours than those stated in the [printed] notice, or, if no such notice [be] *is* posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute prima facie evidence of a violation of [this] *the* section *relating to the hours of labor of such person.*

[5] *2.* In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner [of labor], upon an [proper] application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice [hereinbefore] required *in this section.* [, upon condition that]

3. In every factory operating under such a permit, or employing females under section one hundred and ninety-eight, a notice stating the daily hours of labor *shall* be posted for the information of employees and [that] a time book in a form to be approved by [him] *the commissioner,* giving the names and addresses of all [female] employees *who are subject to this section,* and the hours worked by each of them in each day, shall be [properly and correctly] kept[, and shall be exhibited to him or any of his subordinates promptly upon demand. Such].

4. The permit shall be kept posted in [such] *a conspicuous* place in [such] *the* factory. [as such commissioner may prescribe, and may be revoked by such] *The* commissioner [at any time] *may revoke the permit* for failure to [post] *keep* it or the daily hours of labor *posted,* or to keep [or exhibit such] *the* time book as herein provided.

[6] *5.* Where a female or male minor is employed in two or more factories or mercantile establishments, *or in one factory and*

one mercantile establishment, in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment[; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this subdivision of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof.]

6. In a prosecution for a violation of any provision of this title the burden of proving a permit or exception shall be upon the party claiming it.

Note.— Subdivision 1 is taken from old § 77, sub. 4; sub. 2 is taken from old § 77, sub. 5; sub. 3 is taken from old § 77, sub. 5; sub. 4 is taken from old § 77, sub. 5; sub. 5 is taken from old § 77, sub. 6; sub. 6 is taken from old § 78, sub. 4. Subdivisions 1, 2 and 3 of old § 77 are covered by new §§ 195, 196 and 197.

TITLE III. MERCANTILE AND OTHER ESTABLISHMENTS.

§ [161] *205.* [Hours of labor of minors and women; time for meals.] 1. *Children under sixteen.* No child under the age of sixteen years shall be employed[, permitted or suffered to work] in or in connection with any mercantile establishment, business office, telegraph office, restaurant, hotel, apartment house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles [more than six days or forty-eight hours in any one week, or more than eight hours in any one day, or before eight o'clock in the morning or after six o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law.

2. No female employee over the age of sixteen years shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than six days or fifty-four hours in any one week, or more than nine hours in any one day, unless for the purpose of making a shorter work day of some one day of the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive.

3. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any establishment specified in subdivision one hereof, unless the commissioner of labor shall permit a shorter time. Such permit shall be kept conspicuously posted in the main entrance of the establishment, but it may be revoked at any time. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening.]:

(a) *More than six days or forty-eight hours in any week;*

(b) *Before eight o'clock in the morning or after six o'clock in the evening;*

(c) *More than eight hours in any day.*

This section does not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law.

§ *206. Females over sixteen. Except from the eighteenth day of December to the following twenty-fourth day of December, both inclusive, no female over the age of sixteen years shall be employed in or in connection with any mercantile establishment:*

(a) *More than six days or fifty-four hours in any week;*

(b) *Before six o'clock in the morning or after ten o'clock in the evening;*

(c) *More than nine hours in any day, except that she may be employed more than nine hours per day in order to make a short day or holiday of one of the six working days of the week.*

Note.— Rewritten from old § 161, sub. 1. Old § 161, sub. 2, covered by new § 206. Old § 161, sub. 3, covered by new § 186. Change in substance in sub. (b) from seven o'clock in the morning to six o'clock in the morning.

ARTICLE 6.

PAYMENT OF WAGES.

Section 210. Cash payment of wages.
211. When wages are to be paid.
212. Assignment of future wages.

§ [10] *210.* Cash payment of wages. [Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a

subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in scrip, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.] *1. The following employers shall pay in cash to each employee engaged in their respective businesses the wages earned by such employee:*

(a) Manufacturing, mining, quarrying, mercantile, railroad, street railway, steamboat, canal, telegraph, telephone or express corporations or joint-stock associations.

(b) Nonmunicipal water corporations or joint-stock associations.

(c) Corporations or joint-stock associations engaged in harvesting or storing ice.

2. No such employer shall pay such employees in scrip commonly known as store money-orders.

Note.— Subdivision 1 taken from old § 10, first sentence. Subdivision 2 taken from old § 10, second sentence. Old § 10, latter part of first sentence covered by new § 215. Old § 10, third sentence, relating to company stores, covered by new § 216. Old § 10, last sentence, relating to penalty, covered by new § 405.

§ [11] *211.* When wages are to be paid. *1.* [Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment. But e]*Every* [person or] corporation *or joint-stock association* operating a steam surface railroad, *or person carrying on the business thereof by lease or otherwise* shall, on or before the first day of each month, pay [the] *to each* employee[s thereof] the wages earned by [them] *him* during the first half of the preceding *calendar* month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay [the] *to each* employee[s thereof] the wages earned by [them] *him* during the last half of the preceding calendar month.

2. Every other corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

3. No person shall require from any employee as a condition of employment any agreement to accept wages at other periods than as provided in this section.

Note.— Subdivision 1 taken from old § 11, second sentence. Subdivision 2 is taken from old § 11, first sentence. Subdivision 3 taken from old § 13.

§ [13] *212.* Assignment of future wages. No assignment of future wages, [payable weekly, or monthly in case of a steam surface railroad corporation,] *affected by the provisions of section two hundred and eleven,* shall be valid if made to the [corporation or association from which such wages are to become due,] *employer* or to any person on [its] behalf *of the employer,* or if made or procured to be made to any person for the purpose of relieving [such corporation or association] *the employer* from the obligation to pay [weekly, or monthly in case of a steam surface railroad corporation] *wages as provided by such section.* Charges for groceries, provisions or clothing shall not be a valid off-set [for wages] in behalf of *the employer against wages.* [any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.]

Note.— Last sentence of old § 13 covered by new § 211, sub. 3.

ARTICLE 7.

PUBLIC WORK.

Section 215. Hours and wages.
216. Company stores.
217. Preference in employment of persons upon public works.
218. Enforcement of article.
219. Proceedings for noncompliance.

§ [3] *215.* [Hours to constitute a day's work] *1. Hours and wages.* [Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for over work at an increased

compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith.] Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen, or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. *No such person shall be employed more than eight hours in any day except in such emergency.*

2. The wages to be paid for *such* a [legal] day's work [as hereinbefore defined] to all [classes of] such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used *and shall be paid in cash.* Each such contract [hereafter made] shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person [on,] about or upon such public work, shall receive [such] *the* wages herein provided for.

3. Each contract for such public work [hereafter made] shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner of performance violates the provisions of this section. [but nothing in t]

4. *T*his section shall [be construed to] *not* apply to

a. [s]*S*tationary firemen in state hospitals, [nor to]

b. [o]*O*ther persons regularly employed in state institutions, except mechanics, [nor shall it apply to]

c. [e]*Engineers, electricians and elevator men in the department of public buildings during the* [annual] *sessions of the* legislature, [nor to]

d. Employees engaged in the construction, maintenance and repair of highways outside the limits of cities and villages.

Note.— The first two sentences of old § 3 are covered in new § 180.

§ *216. Company stores. No person engaged in carrying on public work under contract with the state or with any municipal corporation either as a contractor or subcontractor shall, directly or indirectly, conduct what is commonly known as a company store if there is any store selling supplies, within two miles of the place where such contract is being executed.*

Note.— Taken from old § 10.

§ [14] *217.* Preference in employment of persons upon public works. In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed.[; and in all cases w]*Where* laborers are employed on any such public works, preference shall be given citizens of the state of New York. In each contract for the construction of public works a provision shall be inserted to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of cities of the first class [of the state,] having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner [of labor] the names and addresses of all contractors holding contracts with said cities [of the state]. [Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed.] Upon the demand of the commissioner [of labor] a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, [in which it shall be set forth] *stating* whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. [Such lists and records shall be open to the inspection of the commissioner of labor. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less

than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.]

Note.— The provision of old § 14, next to last sentence, that lists shall be open to inspection, covered by new § 42. Old § 14, last sentence, relating to penalty, covered by new § 405.

§ [21] *218.* [Commissioner of labor to e]*Enforcement* [provisions] of article. [The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States or of the state of New York,] *If* the commissioner [of labor shall if he] finds [such complaints to be well founded,] *that any provision of this article has been violated, he shall* present evidence of such noncompliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person *violating* [failing to comply with or evading] such provisions.

Note.— Old § 31, first part of section covered by general provisions.

§ [4] *219.* [Violations of the labor law] *Proceedings for nonenforcement.* Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, [evades] or knowingly permits the violation [or evasion] of any of the provisions of this [chapter]

article shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this [chapter] *article* or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done there[upon] *under.*

Note.—Adapted from old § 4. See new § 405 in relation to penalty.

ARTICLE 8.

EMPLOYMENT AGENCIES AND IMMIGRANT LODGING HOUSES.

Section 225. Definition.
226. Immigrant lodging houses to be licensed.
227. Issuance of immigrant lodging-house license.
228. Rate of charges to be posted and filed.

§ *225. Definition. The term "immigrant lodging house," as used in this article, includes any place, boarding house, lodging-house, inn or hotel where immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, but does not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein applies to temporary sleeping quarters in labor or construction camps.*

Note.— Taken from old § 156, sub. 4.

§ [156. The licensing and regulation of immigrant lodging places.] *226. Immigrant lodging houses to be licensed.* [1] No person shall [hereafter] directly or indirectly, [own,] conduct or keep an immigrant lodging [place] *house* without [having first obtained from the commissioner of labor] a license [therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement verified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application

at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto, in the discretion of the commissioner of labor, a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of labor, conditioned that the obligator shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligator shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason of any contract or other obligation of such licensee or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year. The commissioner

of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee.

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein shall be held to apply to temporary sleeping quarters in labor or construction camps.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the commissioner of labor a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provision of this section.] *issued as provided in section two hundred and twenty-seven.*

Note.— The provision of old § 156, sub. 1, for issuance of licenses covered by new § 227. Old § 156, sub. 2, covered by new § 228. Old § 156, sub. 3, covered by new § 227. Old § 156, sub. 4, covered by new § 225. Old § 156, sub. 5, covered by new § 405. Old § 156, sub. 6, omitted as unconstitutional under article 3, § 21 of the state constitution.

§ 227. Issuance of immigrant lodging-house license. 1. An application for a license to conduct an immigrant lodging house shall be made to the commissioner by the owner, proprietor or lessee of the immigrant lodging house or his duly authorized agent. Such application shall be made upon blanks prepared and furnished by the commissioner and shall state under oath the location of the immigrant lodging house, and the maximum number of boarders or lodgers which it will accommodate.

With such application there shall be presented to the commissioner proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto, in the discretion of the commissioner, a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging house, prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damage or loss which shall accrue to any person dealing with such licensee, by reason of any contract or other obligation of such licensee, or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application does not exceed ten persons the penalty of said bond shall be one hundred dollars; where such number exceeds ten and does not exceed fifty persons it shall be two hundred and fifty dollars, and where the number exceeds fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction.

2. The applicant for a license shall pay to the commissioner a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty.

3. On the approval of the application for a license and of the bond filed therewith the commissioner shall issue a license authorizing the applicant to conduct and keep an immigrant lodging house at the place designated in the application and to be specified in the license certificate. Such license shall not be transferable without the consent of the commissioner, nor authorize the conducting or keeping of an immigrant lodging house on any other premises than those described in the application. The license shall be renewable annually on the payment of a fee based on the maximum number of persons boarded or lodged by the licensee at the house licensed, during the preceding year, as shown in a sworn statement filed by such applicant in such form as the commissioner shall prescribe. The commissioner may revoke the license for any violation of this article or of any rules or regulations of the commissioner, or of the industrial board upon notice to the licensee.

Note.— Taken from old § 156, sub. 1.

§ 228. Rate of charges to be posted and filed. Every licensee shall keep posted in a conspicuous place in the public rooms and in each bedroom of the house licensed a statement printed in the English language and in the language understood by the majority of the patrons, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner. Every such licensee shall likewise file with the commissioner a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

Note.— Taken from old § 156, sub. 2.

ARTICLE 9.

BUILDING CONSTRUCTION AND REPAIR WORK.

Section. 230. Safe scaffolding required for use of employees.
231. Protection of employees on building construction work.
232. Enforcement of this article in cities.

§ 230. Safe scaffolding required for use of employees. 1. Every person employing or directing another to perform labor of any kind in the erection, repairing, altering, painting, cleaning or pointing of a building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes or other mechanical contrivances which are so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

2. Scaffolding or staging more than twenty feet from the ground or floor swung or suspended from an overhead support, or erected with stationary supports, except scaffolding wholly within the interior of a building and covering the entire floor space of any room therein, shall have a safety rail of suitable material, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure.

3. All scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use.

4. If the commissioner finds that any such scaffolding or other mechanical contrivance is unsafe, he shall attach thereto a notice warning all persons against the use thereof. Such notice shall not be removed except by an authorized representative of the department, nor until such scaffolding or other mechanical contrivance is made safe and in the meantime the scaffolding or other mechanical contrivance shall not be used.

Note.— Subdivisions 1 and 2 taken from old § 18. Subdivisions 3 and 4 taken from old § 19. Last sentence of old § 19, that not more than four men shall be allowed on swinging scaffold omitted.

§ 231. Protection of employees on building construction work in cities. All contractors and owners, when constructing buildings in cities, shall comply with the following requirements:

1. Where the floors are to be arched between the beams thereof, or where the floors or filling in between the floors are of fireproof material, the flooring or filling in shall be completed as the building progresses.

2. If the floors are to be filled in with wood beams the underflooring shall be laid on each story as the building progresses.

3. Where double floors are not to be used, the floors two stories immediately below the story where the work is being performed shall be kept planked over.

4. If the floor beams are of iron or steel, the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts shall be thoroughly planked over.

5. If elevators, elevating machines or hod-hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the shafts or openings in each floor shall be inclosed or fenced in on all sides by a barrier of suitable height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening.

Note — Taken from old § 20, words "plans and specifications" in old section omitted. Provision that planking shall extend not less than six feet omitted. Provision that no lumber be hoisted on outside omitted. Provision that shaft be enclosed by barrier not less than eight feet in height changed to barrier of suitable height.

§ 232. Enforcement of article. The chief officer charged with the enforcement of the building laws of any city and the commissioner shall enforce the provisions of this article. Such chief officer shall have all the powers for the enforcement of this article that are vested in the commissioner.

Note.— Taken from old § 20, last sentence.

ARTICLE [6.] *10.*

FACTORIES.

[Section 69. Registration of factories.
70. Employment of minors.
71. Employment certificate, how issued

72. Contents of certificate.
73. School record, what to contain.
75. Supervision over issuance of certificates.
76. Registry of children employed.
76-a. Physical examination of children in factories; cancellation of employment certificates.
77. Hours of labor of children, minors and women.
78. Exceptions.
79. Elevators and hoistways.
79-a. Construction of factory buildings hereafter erected.
79-b. Requirements for existing buildings.
79-c. Additional requirements common to buildings heretofore and hereafter erected.
79-d. Effect of foregoing provisions; inspection of buildings and approval of plans.
79-e. Limitation of number of occupants.
79-f. Meaning of terms.
81. Protection of employees operating machinery; dust-creating machinery; lighting of factories and workrooms.
83-a. Fire alarm signal systems and fire drills.
83-b. Automatic sprinklers.
83-c. Fire proof receptacles; gas jets; smoking.
84. Cleanliness of rooms.
84-a. Cleanliness of factory buildings.
85. Size of rooms.
86. Ventilation.
87. Accidents to be reported.
88. Drinking water, wash-rooms and dressing rooms.
88-a. Water closets.
89. Time allowed for meals.
89-a. Prohibition against eating meals in certain work rooms.
90. Inspection of factory buildings.
92. Laundries.
93. Prohibited employment of women and children.
93-a. Employment of females after childbirth prohibited.
93-b. Period of rest at night for women.
94. Tenant-factories.
95. Unclean factories.

96. Definition of "custodian."
97. Brass, iron and steel foundries.
98. Labor camps.
99. Dangerous trades.
99-a. Laws to be posted.]

TITLE I.—ACCIDENT PREVENTION.

Section *235. Elevators and hoistways.*
236. Protection of employees operating machinery.
237. Lighting to prevent accidents.

TITLE II.—FIRE HAZARD.

239. Industrial board to specify materials and forms of construction.
240. Incombustible fireproof and fireresisting material.
241. Fire door.
242. Fireproof window.
243. Fireproof partition.
244. Fireproof building.
245. Fire wall.
246. Exterior enclosed fireproof stairway.
247. Horizontal exit.
248. Exterior screened stairway.
249. Application of provisions.
250. Construction of buildings erected after October first, nineteen hundred and thirteen.
251. Requirements for buildings erected before October first, nineteen hundred and thirteen.
252. Additional requirements common to all buildings.
253. Fire escapes erected after October first, nineteen hundred and thirteen.
254. Fire escapes erected before October first, nineteen hundred and thirteen.
255. Special laws and local ordinances.
256. Inspection of buildings and approval of plans.
257. Limitation of number of occupants.
258. Fire alarm signal systems.
259. Fire drills.
260. Automatic sprinklers.
261. Fireproof receptacles.
262. Gas jets.
263. Smoking.

TITLE III.— SANITATION.

270. Cleanliness of factory rooms.
271. Cleanliness of factory buildings.
272. Drinking water.
273. Washrooms.
274. Dressing rooms.
275. Water-closets.
276. Laundries.
277. Unclean factories.
278. Living quarters for factory employees.
279. Ventilation, heat and humidity.
280. Size of rooms.
281. Illumination.

TITLE IV.— FOUNDRIES.

285. Foundries.

TITLE V.— DUTIES OF OWNERS AND OCCUPIERS.

286. Duties of owners and occupiers.

TITLE I.— ACCIDENT PREVENTION.

§ [79] *235.* Elevators and hoistways. 1. [Inclosure of shafts.] *In every factory building erected before October first, nineteen hundred and fourteen,* [E]every hoistway, hatchway or well-hole used for *elevators* carrying passengers, [or] employees, or [for] freight [elevators,] *or used for* hoisting or other purpose, shall, *except as provided in subdivision two,* be protected on all sides at each floor including the basement, by substantial vertical inclosures. All openings in such inclosures shall be provided with self-closing gates of [suitable] *sufficient* height, or with properly constructed [sliding] doors. In the case of elevators used for carrying passengers or employees, such inclosures shall be flush with the hatchway, and shall extend from floor to ceiling on every open side of the car, and on every other side shall be at least six feet high, and such inclosures shall be free from fixed obstructions on every open side of the car. In the case of freight elevators the inclosures shall be flush with the hoistway on every open side of the car.

2. In place of the inclosures [herein] required *in subdivision one* [for freight elevators,] every hatchway used for freight elevator purposes may be provided with trap doors so constructed as to form a substantial floor surface when closed and so arranged as to open and close by the action of the car in its passage both

ascending and descending. [; provided that i] *In* addition to such trap doors, the hatchway shall be adequately protected on all sides at all floors, including the basement, by a substantial railing or other vertical inclosure at least three feet in height.

3. [2. Guarding of elevators and hoistways. All] *In every factory building erected before October first, nineteen hundred and thirteen, all* counter-weights of every elevator shall be adequately protected [by proper inclosures] at the top and bottom of the run. The car of [all] *every* elevator[s] *in such building* used for carrying passengers or employees shall be substantially [e]*in*closed on all sides, including the top, and [such car] shall [at all times] be properly lighted *during working hours* [, artificial illuminants to be provided and used when necessary]. The top of every freight elevator car or platform *in such building* shall be provided with a substantial grating or covering for the protection of the operator thereof[, in accordance with such rules and regulations as may be adopted with reference thereto by the industrial board].

4. [3. Elevators and hoistways in factory buildings hereafter erected. The provisions of subdivisions one and two of this section shall apply only to factory buildings heretofore erected.] In all factory buildings [hereafter] erected *after October first, nineteen hundred and thirteen,* every elevator and every part thereof and all machinery connected therewith and every hoistway, hatchway and well-hole shall be so constructed, guarded, equipped, maintained and operated as to be safe for all persons [using the same].

5. [4. Maintenance of elevators and hoistways in all factory buildings.] In every factory building [heretofore erected or hereafter erected,] all inclosures[, doors and gates] of hoistways, hatchways or well-holes, and all elevators therein used for [the] carrying [of] passengers, [or] employees or freight, and the gates, [and] doors, *cables, gearing and other apparatus* thereof shall at all times be kept in good repair and in a safe condition. All openings leading to *such* elevators shall be kept [well] *properly* lighted [at all times] during working hours[, with artificial illumination when necessary. The cable, gearing and other apparatus of elevators used for carrying passengers or employees or freight shall be kept in a safe condition].

6. [5. Powers of industrial board.] The industrial board shall [have power to] make rules [and regulations] not inconsistent

with the provisions of this chapter regulating the construction, guarding, equipment, maintenance and operation of elevators and all parts thereof, and all machinery connected therewith and hoistways, hatchways and well-holes in order to carry out the purpose [and intention] of this section.

§ [81] *236.* Protection of employees operating machinery[; dust-creating machinery; lighting of factories and workrooms. 1. The owner or person in charge of a factory where machinery is used, shall provide, as may be required by the rules and regulations of the industrial board, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. Every vat and pan wherever set so that the opening or top thereof is at a lower level than the elbow of the operator or operators at work about the same shall be protected by a cover which shall be maintained over the same while in use in such manner as effectually to prevent such operators or other persons falling therein or coming in contact with the contents thereof, except that where it is necessary to remove such cover while any such vat or pan is in use, such vat or pan shall be protected by an adequate railing around the same. Every hydro-extractor shall be covered or otherwise properly guarded while in motion. Every saw shall be provided with a proper and effective guard. Every planer shall be protected by a substantial hood or covering. Every hand-planer or jointer shall be provided with a proper and effective guard. All cogs and gearing shall be boxed or cased either with metal or wood. All belting within seven feet of the floors shall be properly guarded. All revolving shafting within seven feet of the floors shall be protected on its exposed surface by being encased in such a manner as to effectively prevent any part of the body, hair or clothing of the operators or other persons from coming in contact with such shafting. All set-screws, keys, bolts and all parts projecting beyond the surface of revolving shafting shall be countersunk or provided with suitable covering, and machinery of every description shall be properly guarded and provided with proper safety appliances or devices. All machines, machinery apparatus, furniture and fixtures shall be so placed and guarded in relation to one another as to be safe for all persons. Whenever any danger exists which requires any special care as to the character and condition of the clothing of the persons employed thereabouts, or which requires the use of special clothing or guards, the

industrial board may make rules and regulations prescribing what shall be used or worn for the purpose of guarding against such danger and regulating the provision, maintenance and use thereof. No person shall remove or make ineffective any safeguard or safety appliance or device around or attached to machinery, vats or pans, unless for the purpose of immediately making repairs thereto or adjustment thereof, and any person who removes or makes ineffective any such safeguard, safety appliance or device for a permitted purpose shall immediately replace the same when such purpose is accomplished. It shall be the duty of the employer and of every person exercising direction or control over the person who removes such safeguard, safety appliance or device, or over any person for whose protection it is designed to see that a safeguard or safety appliance or device that has been removed is promptly and properly replaced. All fencing, safeguards, safety appliances and devices must be constantly maintained in proper condition. When in the opinion of the commissioner of labor a machine or any part thereof is in a dangerous condition or is not properly guarded or is dangerously placed, the use thereof shall be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the department of labor, nor until the machinery is made safe and the required safeguards or safety appliances or devices are provided, and in the meantime such unsafe or dangerous machinery shall not be used. The industrial board may make rules and regulations regulating the installation, position, operation, guarding and use of machines and machinery in operation in factories, the furnishing and use of safety devices and safety appliances for machines and machinery and of guards to be worn upon the person, and other cognate matters, whenever it finds such regulations necessary in order to provide for the prevention of accidents in factories.

2. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet-grinding it is unnecessary to comply with this provision unless required by the rules and regulations of the industrial board.

All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the industrial board shall decide that it is unnecessary for the health and welfare of the operatives.

3. All passageways and other portions of a factory, and all moving parts of machinery which are not so guarded as to prevent accidents, where, on or about which persons work or pass or may have to work or pass in emergencies, shall be kept properly and * and sufficiently lighted during working hours. The halls and stairs leading to the workrooms shall be properly and adequately lighted, and a proper and adequate light shall be kept burning by the owner or lessee in the public hallways near the stairs, upon the entrance floor and upon the other floors on every workday in the year, from the time when the building is open for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory lighting is extinguished.

4. All workrooms shall be properly and adequately lighted during working hours. Artificial illuminants in every workroom shall be installed, arranged and used so that the light furnished will at all times be sufficient and adequate for the work carried on therein, and so as to prevent unnecessary strain on the vision or glare in the eyes of the workers. The industrial board may make rules and regulations to provide for adequate and sufficient natural and artificial lighting facilities in all factories].

1. In every factory all machinery shall be properly guarded and provided with proper safety appliances or devices.

a. Whenever practicable, all machinery shall be provided with loose pulleys and with belt shifters for throwing belts on or off pulleys or with other mechanical contrivances for disengaging power.

b. The openings or tops of vats and pans shall be adequately protected and guarded. Every hydro-extractor shall be covered or otherwise properly guarded while in motion.

c. Every saw, hand-planer or jointer shall be provided with a proper guard and every wood planer shall be provided with a substantial hood or other covering.

d. All cogs and gearing unless otherwise properly protected shall be boxed or cased with metal or wood.

e. All dangerous belting within seven feet of the floor shall be properly guarded and all revolving shafting within seven feet of the floor shall be so encased as to prevent any part of the body, hair or clothing of any person from coming in contact therewith or shall be otherwise adequately protected.

f. All set-screws, keys, bolts and all parts projecting beyond the surface of revolving shafting shall be counter-sunk or provided with suitable covering.

g. All machinery, apparatus, furniture and fixtures shall be so placed and guarded in relation to one another as to be safe for all persons.

h. Whenever necessary for the safety of employees special clothing or guards to be worn upon the person shall be provided and used.

2. No person shall remove or make ineffective any safeguard or safety appliance or device around or attached to machinery, vats or pans, unless for the purpose of immediately repairing or adjusting such machinery, guard, appliance or device and he shall immediately replace such guard, appliance or device when such purpose is accomplished. It shall be the duty of the employer and of every person exercising direction or control over the person who removes such safeguard, safety appliance or device, or over any person for whose protection it is designed, to see that it is promptly and properly replaced. All safeguards, safety appliances and devices shall be constantly maintained in proper condition.

3. If the commissioner finds that a machine or any part thereof is in a dangerous condition or is not properly guarded or is dangerously placed, he shall attach to such machine a notice warning all persons against the use thereof. Such notice shall not be removed except by an authorized representative of the department nor until the machinery is made safe and the required safeguards or safety appliances or devices are provided, and in the meantime such machinery shall not be used.

Note.— Rewritten from old § 81, sub. 1. The last sentence of old § 81, sub. 1, covered by new § 217. Old § 81, sub. 2, covered by new § 279. Old § 81, sub. 3, covered by general powers of industrial board. Section 81, sub. 4, covered by new § 281. Subdivision 1-b of this section made general; sub. c, word "wood" inserted before "planers"; sub. d, words "unless others were properly protected", new; sub. e, word "dangerous" before belting in first sentence, new; words "or shall be otherwise adequately protected," at end of subdivision, new.

§ 237. Lighting to prevent accidents. 1. If in any factory there are any moving parts of machinery which are not required to be guarded under the provisions of section one hundred and seventy-six or the rules of the industrial board, all such moving parts shall be kept properly lighted during working hours when necessary to prevent accidents.

2. In every factory all places where persons work or pass or may have to work or pass in emergencies, shall be kept properly lighted during working hours.

3. The halls and stairs leading to factory workrooms shall be kept properly lighted during working hours. Except when artificial light is unnecessary a light shall be maintained in the public hallways near the stairs upon every floor during every working day from the time the building is opened for use until it is closed. Such lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory lighting is extinguished. Where the factory is lighted by electricity the lights shall be on a separate circuit from the regular factory lighting system.

Note.— Taken from old § 81, sub. 3. Last sentence new.

TITLE II.— FIRE HAZARD.

§ 239. Industrial board to specify materials and forms of construction. Whenever in this title specific materials or forms of construction are required, any others equivalent thereto may be accepted by the industrial board, if they shall have passed the standard tests prescribed by the board.

Note.— New section.

§ [79-f.] *240.* [Meaning of terms.] *Incombustible, fireproof and fire-resisting material.* [The following terms when used in this article shall have the following meanings:

1. Fireproof construction. A building shall be deemed to be of fireproof construction if it conforms to the following requirements: All walls constructed of brick, stone, concrete or terra-cotta; all floors and roofs of brick, terra-cotta or reinforced concrete placed between steel or reinforced concrete beams and girders; all the steel entering into the structural parts encased in at least two inches of fireproof material, excepting the wall columns, which must be encased in at least eight inches of masonry on the outside and four inches on the inside; all stairwells, elevator wells, public

hallways and corridors enclosed by fireproof partitions; all doors, faces of incombustible material; no woodwork or other combustible fireproof; all stairways, landings, hallways and other floor surmaterial used in any partition, furring, ceiling or floor; and all window frames, doors and sash, trim and other interior finish of incombustible material; all windows shall be fireproof windows except that in buildings under seventy feet in height fireproof windows are required only when within thirty feet of another building or opening on a court or space less than thirty feet wide; except that in buildings under one hundred feet in height there may be wooden sleepers and floor finish and wooden trim, and except that in buildings under one hundred and fifty feet in height heretofore constructed there may be wooden sleepers, floor finish and trim and the windows need not be fireproof windows, excepting when such windows are within thirty feet of another building.

2. Fireproof material is material which is incombustible and is capable of resisting the effect of fire in such manner and to such extent as to insure the safety of the occupants of the building. The industrial board shall determine and in its rules and regulations shall specify what materials are fireproof materials within the meaning hereof. The industrial board shall also determine and in its rules and regulations shall specify what materials, not being fireproof materials within the meaning hereof, are fire resisting materials. Fire resisting material, when required by any of the provisions of this chapter, shall conform to requirements of such rules and regulations.

3. Incombustible material is material which will not burn or support combustion.

4. A fire wall is a wall constructed of brick, concrete, terra-cotta blocks or reinforced stone concrete, and having at each floor level one or more openings each protected by fire doors so constructed as to prevent the spread of fire or smoke through the openings. In buildings of nonfireproof construction fire walls shall be at least twelve inches in thickness and shall extend continuously from the cellar floor through the entire building and at least three feet over the roof and be coped; except that walls heretofore erected not less than eight inches in thickness, but otherwise conforming to the requirements of this subdivision shall be considered fire walls within the meaning of this subdivision. No opening in such wall shall exceed sixty-six inches in width or sixty square feet in area, except that where openings not exceeding

eight feet in width exist in fire walls heretofore erected, such walls may be considered fire walls within the meaning of this subdivision, and in the case of fire walls hereafter constructed no two openings in the same wall and at the same floor level shall be nearer than forty feet from the center of one opening to the center of another. Every opening in a fire wall shall be protected by a fire door closing automatically on each side of the wall. At every opening in the fire wall there shall be an incombustible floor finish extending over the floor for the full thickness of the wall so as to completely separate the woodwork of the floors on each side of the fire wall. In fireproof buildings the fire walls shall comply with the foregoing requirements in all respects excepting that they may be of the thickness required by the provisions of this section with respect to fireproof partitions; such fire walls and fireproof partitions shall be continuous, from the cellar floor to the under side of the fireproof roof.

5. Fireproof partitions shall be built of brick, concrete, reinforced concrete or terra-cotta blocks. When built of brick or concrete they shall be not less than eight inches in thickness for the uppermost forty feet, and shall increase four inches in thickness for each additional lower forty feet or part thereof; or, when wholly supported by suitable steel framing at vertical intervals of not over forty feet, they may be eight inches in thickness throughout their entire height. When wholly supported at vertical intervals of not over twenty-five feet, and built of terra-cotta blocks, they shall be not less than six inches in thickness and when so supported and built of reinforced stone concrete, they shall be not less than four inches in thickness. The supporting steel framework shall be properly encased on all sides by not less than two inches of fireproof material, securely fastened to the steel work. All openings in such partitions shall be provided with fire doors.

6. Fire doors. Fire doors shall be metal-covered doors, or doors of such other material as shall be specified in the rules and regulations of the industrial board. They shall be provided with self-closing devices and have incombustible sills. The industrial board shall determine, and in its rules and regulations shall specify, the material and mode and manner of construction and erection of such doors.

7. Fireproof windows shall be windows constructed of metal frames and sash or frames and sash covered with metal, and provided with wired glass and of the automatic, self-closing type.

8. Exterior enclosed fireproof stairways shall be stairways completely enclosed from top to bottom by walls of fireproof material not less than eight inches thick extending from the sidewalk, court or yard level to the roof, and with walls extending above the roof so as to form a bulkhead. The stairway shall in all other respects conform to the requirements of this article in regard to enclosed stairways. There shall be no opening in any wall separating the exterior enclosed fireproof stairway from the building. Access shall be provided to the stairway from every floor of the building by means of an outside balcony or vestibule of steel, iron or masonry. Every such balcony or vestibule shall have an unobstructed width of at least forty-four inches and shall be provided with a fireproof floor and a railing of incombustible material not less than three feet high. Access to such balconies from the building and to the stairway from the balconies, shall be by means of fire doors. The level of the balcony floor shall be not more than seven inches below the level of the door sill of the building. The doors shall be not less than forty-four inches wide and shall swing outward onto the balcony and inward from the balcony to the stairway, and shall be provided with locks or latches with visible fastenings requiring no key to open them in leaving the building. The landings in such stairway shall be of such width that the doors in opening into the stairway shall not reduce the free passageway of the landings to a width less than the width of the stairs. Every such stairway shall be provided with a proper lighting system which shall furnish adequate light and shall be so arranged as to ensure its reliable operation when, through accident or other cause, the regular factory lighting is extinguished. The balconies giving access to such stairways shall be open on at least one side upon an open space not less than one hundred square feet in area.

9. Horizontal exit. A horizontal exit shall be the connection by means of one or more openings not less than forty-four inches wide, protected by fire doors, through a fire wall in any building, or through a wall or walls between two buildings, which doors shall continuously be unlocked and the opening unobstructed whenever any person is employed on either side of the opening. Exterior balconies and bridges not less than forty-four inches in width connecting two buildings and not having a gradient of more than one foot fall in six, may also be counted as horizontal exits when the doors opening out upon said balconies or bridges are fireproof

doors and are level with the floors of the building, and when all doors of both buildings opening on such balconies or bridges are continuously kept unlocked and unobstructed whenever any person is employed on either side of the exit, and when such balconies or bridges are built of incombustible material and are capable of sustaining a live load of not less than ninety pounds per square foot with a factor of safety of four; and when such balconies or bridges are enclosed on all sides to a height of not less than six feet and on top and bottom by fireproof material, unless all windows or openings within thirty feet of such balconies in the connected buildings shall be encased in metal frames and sash and shall have wired glass where glass is used. In any case there shall be on each side of the wall or partition containing the horizontal exit and independent of said horizontal exit, at least one stairway conforming to the requirements for a required means of exit.

10. Exterior screened stairways used as one of the required means of exit in buildings heretofore erected shall be built of incombustible material. The risers of the stairs shall be not more than seven and three-quarters inches in height and the treads not less than ten inches wide. On each floor there shall be a balcony connecting with the stairs. Access to the balconies shall be by means of fire doors that shall open outwardly, so as not to obstruct the passageway, or slide freely, and shall extend to the floor level. All windows or other openings opening upon the course of such stairs shall be fireproof. The level of the balcony floor shall not be more than seven inches below the level of the door sill. The stairs shall continue from the roof to the ground level, and there shall be independent means of exit from the bottom of such stairs to the street or to an open court or to a fireproof enclosed passageway leading to the street or to an open area having communication with the street or road. The balconies and stairs shall be enclosed in a screen of incombustible material.

11. The provisions of subdivisions four to nine inclusive of this section shall apply to all buildings hereafter erected and to all construction hereafter made in buildings heretofore erected. The industrial board shall adopt rules and regulations regulating construction heretofore made in buildings heretofore erected requiring compliance with such of the requirements of the said subdivisions or with such other or different requirements as said board may find to be reasonable and adequate to protect persons employed in such buildings against fire.]

1. The term "incombustible material," when used in this title, means material which will not burn or support combustion.

2. The term "fireproof material," when used in this title, means incombustible material capable of resisting the effect of fire to a sufficient extent to insure the safety of the occupants of the building. The industrial board shall determine and shall specify in its rules what materials are fireproof materials within the meaning hereof, and also what materials, not being fireproof materials within the meaning hereof, are fire resisting materials.

3. The term "fire resisting material," when used in this title, means material conforming to such latter requirements.

Note.— Revised from subs. 2 and 3 of old § 79-f. Old § 79-f, sub. 1, covered by new § 244. Old § 79-f, sub. 4, covered by new § 245. Old § 79-f, sub. 5, covered by new § 243. Old § 79-f, sub. 6, covered by new § 241. Old § 79-f, sub. 7, covered by new § 242. Old § 79-f, sub. 8, covered by new § 246. Old § 79-f, sub. 9, covered by new § 247. Old § 79-f, sub. 10, covered by old § 248. Old § 79-f, sub. 11, all except first sentence, covered by new § 27.

§ 241. Fire door. The term "fire door," when used in this title, means a door constructed entirely of metal or a metal-covered door or door of such other fire resisting material as shall be specified in the rules of the industrial board, and that is provided with a self-closing device and has an incombustible sill. The industrial board shall determine, and shall specify in its rules, the material, and the manner of construction and erection of such doors.

Note.— Taken from old § 79-f, sub. 6.

§ 242. Fireproof window. The term "fireproof window," when used in this title, means a window constructed of metal frame and sash or frame and sash-covered with metal and provided with wired glass. Fireproof windows shall be stationary or automatic self-closing as may be required by the rules of the industrial board.

Note.— Taken from old § 79-f, sub. 7.

§ 243. Fireproof partition. The term "fireproof partition," when used in this title, means a partition built of brick, concrete, reinforced concrete or terra-cotta blocks and in conformity with the following requirements. When built of brick or concrete it shall be not less than eight inches in thickness for the uppermost forty feet, and shall increase four inches in thickness for each addi-

tional lower forty feet or part thereof; or when wholly supported by suitable steel framing or reinforced stone concrete construction at vertical intervals of not over forty feet, it may be eight inches in thickness throughout its entire height. When wholly supported at vertical intervals of not over twenty-five feet, and built of terra-cotta blocks, it shall be not less than six inches in thickness and when so supported and built of reinforced stone concrete, it shall be not less than four inches in thickness when wholly supported at vertical intervals of not over eighteen feet, and built of reinforced cinder concrete it shall be not less than four inches in thickness. The supporting steel framework shall be properly encased on all sides by not less than two inches of fireproof material, securely fastened to the steel work. All openings in the partition shall be provided with fire doors.

Note.— Taken from old § 79-f, sub. 5. Words in second sentence of new section "or reinforced stone concrete construction," new.

§ 244. Fireproof building. The term "fireproof building," when used in this title, means a building conforming to the following requirements:

1. All walls shall be constructed of brick, stone, concrete or terra-cotta.

2. All floors and roofs shall be built of brick, terra-cotta or reinforced concrete placed between steel or reinforced concrete beams and girders.

3. All structural steel shall be encased in at least two inches of brick, concrete or terra cotta, except the wall columns, which shall be encased in at least four inches of masonry on the outside and four inches on the inside.

4. All stairwells, elevator wells, public hallways and corridors shall be enclosed by fireproof partitions.

5. All doors in fireproof or fire resisting partitions shall be fire doors.

6. All stairways, landings, hallways, furring, ceilings, sash, trim and permanent partitions, shall be constructed of incombustible material. Wooden floors and their sleepers may be used, laid in accordance with the specifications of the industrial board.

7. All windows above the ground floor shall be fireproof windows. The industrial board may except from this requirement windows of the second story used for show purposes.

8. Exceptions: (a) In buildings under one hundred feet in height there may be wooden trim and fireproof windows shall be required only when within thirty feet of another building or opening on a court or space less than thirty feet wide. (b) In buildings erected before October first, nineteen hundred and thirteen, under one hundred and fifty feet in height there may be wooden trim and fireproof windows shall be required only when such windows are within thirty feet of another building.

Note.— Taken from old § 79-f, sub. 1, with material changes in substance.

§ 245. Fire wall. The term "fire wall," when used in this title, means a wall conforming to the following requirements:

1. It shall be constructed of brick, concrete, terra-cotta blocks or reinforced stone concrete.

2. It may have at each floor level one or more openings each protected by fire doors closing automatically on either side of the wall and so constructed as to prevent the spread of fire or smoke through the openings.

3. In nonfireproof buildings such walls shall be at least eight inches thick for the uppermost forty feet and shall increase at least four inches in thickness for each additional lower forty feet or part thereof if erected after October first, nineteen hundred and thirteen, and at least eight inches thick if erected before that date. In fireproof buildings such wall shall be of the thickness required for a fireproof partition by section two hundred and forty-three.

4. No opening in such a wall shall exceed eight feet in width or eighty square feet in area.

5. The center of every opening in such a wall erected after October first, nineteen hundred and thirteen, shall be at least thirty feet from the center of every other opening therein at the same floor level.

6. At every opening in the wall there shall be an incombustible floor finish extending over the floor the full thickness of the wall so as to completely separate the woodwork of the floors on each side of the wall.

7. In a nonfireproof building the wall shall extend from the cellar floor to at least three feet above the roof and be coped. In a fireproof building it shall extend from the cellar floor to the under side of the fireproof roof.

Note.— Taken from old § 79-f, sub. 4, with following changes in substance: Subdivision 4, new section openings in fire walls not to exceed eight feet in width or eighty square feet in area instead of sixty-six inches in width and sixty square feet in area, in old law. Subdivision 5, new section openings in fire walls to be at least thirty feet apart instead of forty feet, as in old law.

§ 246. Exterior enclosed fireproof stairway. The term "exterior enclosed fireproof stairway," when used in this title, means a stairway conforming to the following requirements:

1. It shall be completely enclosed from top to bottom by walls of fireproof material not less than eight inches thick extending from the sidewalk, court or yard level to the roof, and above the roof so as to form a bulkhead.

2. It shall in all other respects conform to the requirements of sections two hundred and fifty, two hundred and fifty-one and two hundred and fifty-two, in regard to stairways and their enclosure.

3. There shall be no opening in any wall separating it from the building except that there may be such an opening at the street level, leading only to a fireproof passageway having direct and uninterrupted communication with the street.

4. Access shall be provided to the stairway from every floor of the building by means of an outside balcony or vestibule of steel, iron or masonry. Every such balcony or vestibule shall have an unobstructed width of at least forty-four inches and shall be provided with a fireproof floor and a railing of incombustible material not less than three feet high. Access to such balconies from the building and to the stairway from the balconies shall be by means of fire doors. The level of the balcony floor shall be not more than seven inches below the level of the door sill of the building. The doors shall be not less than forty inches wide and shall swing outward onto the balcony and inward from the balcony to the stairway, and shall be provided with locks or latches with visible fastenings requiring no key to open them in leaving the building. The balconies shall be open on at least one side upon an open space not less than one hundred square feet in area.

5. The landings shall be of such width that the doors in opening into the stairway shall not reduce the free passageway of the landings to a width less than the width of the stairs.

6. Such stairway shall be provided with a proper lighting system which shall furnish adequate light and shall be so arranged as to ensure its reliable operation when through accident or other cause, the regular factory lighting is extinguished. If the factory is lighted by electricity such lighting system shall be on a separate circuit from the regular factory lighting system.

Note.— Taken from old § 79-f, sub. 8, second sentence in sub. 3 of new section is new, as is also the second sentence of sub. 6.

§ 247. Horizontal exit. The term "horizontal exit," when used in this title, means either (a) an opening through a firewall in any building or through a wall or walls between two buildings, which opening conforms to the requirements of subdivision one, or (b) a balcony or bridge connecting two buildings and conforming to the requirements of subdivisions two to six inclusive.

1. It shall not be less than forty inches wide and shall be protected by fire doors. Such doors shall be kept unlocked and unobstructed whenever any person is employed on either side. On each side of the opening there shall be at least one stairway conforming to the requirements for required exits.

2. It shall not be less than forty-four inches wide with a gradient of not more than one foot fall in six.

3. The doors opening upon it from each building shall be fire doors level with the floors of the respective buildings. Such doors shall be kept unlocked and unobstructed whenever any person is employed on either side of the balcony or bridge.

4. It shall be built of incombustible material and be capable of sustaining a live load of not less than ninety pounds per square foot with a factor of safety of four.

5. It shall, unless all windows or other openings within thirty feet of it in the connected buildings are provided with fireproof windows or fire doors, be enclosed by fireproof material on the top and bottom and on all sides to a height of not less than six feet.

6. On each side of it there shall be at least one stairway conforming to the requirements for required exits.

Note.— Taken from old § 79-f, sub. 9.

§ 248. Exterior screened stairway. The term "exterior screened stairway," when used in this title, means a stairway conforming to the following requirements:

1. It shall be built of incombustible material.

2. The risers of the stairs shall not be more than seven and three-quarters inches in height and the treads not less than ten inches wide.

3. On each floor there shall be a balcony connecting with the stairs.

4. Access to the balconies shall be by means of fire doors which shall extend to the floor level and which shall slide freely or open outwardly so as not to obstruct the passageway.

5. All windows or other openings opening upon the course of such stairs shall be fireproof.

6. The level of the balcony floor shall not be more than seven inches below the level of the door sill.

7. The stairs shall continue from the roof to the ground level, and shall lead (a) directly to a street, or (b) to a fireproof enclosed passageway independent of other exit from the building or equal in width to the aggregate width of all stairways leading to it, and leading to a street or road, or (c) to an open area having communication with a street or road.

8. The balconies and stairs shall be protected on the sides by a wire screen.

9. If erected after July first, nineteen hundred and fourteen, the stairway shall be not less than three feet wide.

Note.— Taken from old § 79-f, sub. 10. The words "protected on the sides by a wire screen" in sub. 8, of new section, substituted for "enclosed in a screen of noncombustible material" in old section.

§ *249. Application of provisions. The provisions of sections two hundred and forty-one, two hundred and forty-two, two hundred and forty-three, two hundred and forty-five, two hundred all buildings erected after October first, nineteen hundred and and forty-six and two hundred and forty-seven shall apply to thirteen, and to all construction made after that date in buildings erected prior to that date. The industrial board shall adopt rules affecting construction made before October first, nineteen hundred and thirteen, in buildings erected before that date, requiring compliance with such of the requirements of said sections, or with such other or different requirements as it finds reasonable and adequate to protect persons employed in such buildings.*

Note.— Taken from old § 79-f, sub. 11.

§ [79-a] *250.* Construction of [factory] buildings [hereafter] erected *after October first, nineteen hundred and thirteen.* No factory shall be conducted in any building [hereafter] erected *after October first, nineteen hundred and thirteen, which is* more than one story in height unless such building shall conform to the following requirements:

1. *Fireproof construction.* All buildings more than four stories in height shall be [of] fireproof [construction. The].

2. *Mill construction. Buildings not more than six stories in height and provided with an approved automatic sprinkler system*

may be of mill or slow burning construction built according to specifications of the industrial board.

3. Modifications. The industrial board may permit the erection of buildings not over six stories in height, of incombustible construction, but not complying with the requirements for fireproof buildings where in the opinion of the board there is a small life hazard.

4. Roofs and walls. All roofs of [all] *buildings over one story in height* shall be covered with incombustible material, [or shall be of] tar and slag, [or] plastic cement *or such other materials as the industrial board may approve, supported and laid in accordance with specifications adopted by the board.* [supported by or applied to arches of fireproof material, and the c] *C*ornices shall be constructed of incombustible material. All exterior walls within twenty-five feet of any nonfireproof building shall be *built of masonry* not less than eight inches thick and shall extend three feet above the roof.

[2. Floor area and r] *5. R*equired exits. The term "floor area" as used in this section [signifies] *means* the entire space between fire walls, or between a fire wall and an exterior wall of a building, or between the exterior walls of the building where there is no intervening fire wall. From every floor area there shall be not less than two [means of] exit*s* remote from each other, one of which on every floor above the ground floor shall be an interior [enclosed fireproof] stairway or an exterior enclosed fireproof stairway, and the other [shall be] *either* such a stairway or a horizontal exit. No point in any floor area shall be more than one hundred feet distant from the entrance to one such [means of] exit *at that floor.* Whenever any floor area exceeds five thousand square feet there shall be [provided] at least one additional [means of] exit as hereinbefore described *and there shall be another additional exit* for each *additional* five thousand square feet or part thereof [in excess of five thousand square feet]. In every building over one hundred feet in height there shall be at least one exterior enclosed fireproof stairway which shall be accessible from any point in the building.

[3] *6.* Stairways. All stairways shall be constructed of incombustible material and shall have an unobstructed width of at least forty-four inches throughout their length, except that hand rails may project not more than three and one-half inches into such width. There shall be not more than twelve feet six inches in

height between successive landings. The treads shall be not less than ten inches wide exclusive of nosing, and the rise shall be not more than seven and three-fourths inches. No stairway with "winders" shall be allowed except [as a connection from one floor to another] *a single flight connecting only two floors.* The treads shall be constructed and maintained in such manner as to prevent persons from slipping thereon. Every stairway shall be enclosed on all sides by fireproof partitions extending continuously from the lowest story to which such stairway extends to three feet above the roof *or in case of a fireproof building to the roof.* [and t]*The* roof of the enclosure shall be constructed of fireproof material at least [four] *three and a half* inches thick with a skylight at least three-fourths the area of the shaft *unless adequate outside windows are provided.* All stairways serving as required [means of] exit shall extend to the roof and shall lead (*a*) continuously to the street, or (*b*) to a fireproof passageway independent of other [means of] exit from the building, *or equal in width to the aggregate width of the stairways leading to it,* opening on a road or street, or (*c*) to an open area affording unobstructed passage to a road or street. [All stairways that extend to the top story shall be continued to the roof.] Provision shall be made for the adequate lighting of all stairways by artificial light.

[4] 7. Doors and doorways. All doors shall open outwardly. The width of the hallways and exit doors leading to the street, at the street-level, shall be not less than the aggregate width of all *required* stairways leading to them. Every door leading to or opening on a stairway shall have an unobstructed width of at least forty[-four] inches.

[5] *8.* Partitions. All *permanent* partitions in the interior of *fireproof* buildings [of fireproof construction] shall be of incombustible material.

[6] *9.* [Openings to be enclosed] *Shafts.* All elevator and dumbwaiter shafts, vent and light shafts, pipe and duct shafts, hoistways and all other vertical openings leading from one floor to another shall be enclosed throughout their height [on all sides] by enclosures of fireproof material. Every such enclosure shall have a roof of fireproof material. [and i]*If an elevator shaft, dumbwaiter shaft or vent and light shaft* [the enclosure] extends to the top story [it] *the enclosure* shall be continued to three feet above the roof of the building *or to the roof if it is*

fireproof and shall have at the top *either* a *metal-framed* skylight [in a metal frame] at least three-fourths of the area of the shaft or [exterior] *a fireproof* window [with metal frame and sash] *or with properly constructed self-closing metal louvres.* The bottom of the enclosure shall be of fireproof material unless the [opening] *enclosure* extends to the cellar bottom. All openings in such enclosures shall be provided with fire [-proof] doors, except that openings in the enclosures of vent and light shafts [shall] *may* be provided [either] with fire-[proof] doors, [or with] *fireproof* windows [having metal frames and sash and wired glass where glass is used].

§ [79-b] *251.* Requirements for [existing] buildings *erected before October first, nineteen hundred and thirteen.* No factory shall be conducted in any building [heretofore] erected *before October first, nineteen hundred and thirteen,* unless such building shall conform to the following requirements:

1. Required exits. [Every building over two stories in height shall be provided on each floor with at least two means of exit or escape from fire,] *From every floor in a building over two stories in height there shall be at least two exits* remote from each other [, o]. *O*ne of [which] *them* on every floor above the ground floor shall [lead to or open on] *be either* an interior stairway, which shall be enclosed as hereinafter provided, or [to] an exterior enclosed fireproof stairway. The other shall [lead to] *be either* such a stairway; or [to] a horizontal exit; or [to] an exterior screened stairway; or [to] fire escapes on the outside of the building in buildings of five stories or less in height except that such fire escapes shall not be accepted as *a* required [means of] exit in such buildings or particular classes thereof where the industrial board finds that such fire escapes would not in its opinion furnish adequate and safe means of escape for the occupants in case of fire; or [to] outside fire escapes in buildings over five stories in height when, in the opinion of the industrial board the safety of the occupants of the building would not be endangered thereby. No point on any floor [of such factory] shall be more than one hundred feet distant from the entrance to one such [means of] exit *at that floor.* Whenever egress may be had from the roof to an [adjoining or nearby] *adjacent* structure, every stairway serving as a required [means of] exit shall be extended to the roof. All such stairways shall extend to the first story and lead to the street or to an unobstructed passage-

way leading to a street or road or to an open area affording safe passage to a street or road.

2. Stairway enclosures. All interior stairways serving as required [means of] exits in buildings more than five stories in height and the landings, platforms and passageways connected therewith shall be enclosed on all sides by partitions of fire resisting material extending continuously *to the roof* [from the basement]. Where the stairway extends to the top floor of the building such partitions shall extend to three feet above the roof *or to the roof if it is fireproof.* [All openings in such partitions shall be provided with self-closing doors constructed of fire resisting material except where such openings are in the exterior wall of the building.] All such partitions and the doors provided for the openings therein shall be constructed in such manner as the industrial board may prescribe by its rules and regulations. The industrial board shall have power to adopt rules and regulations requiring the enclosure of stairways serving as required exits in buildings of five stories or less in height or in particular classes of such buildings [wherever] *whenever* the board finds that because of the conditions existing in such buildings such requirement is necessary to secure the safety of the lives of the occupants thereof, in case of fire. Whenever in the case of [any existing] buildings *erected before October first, nineteen hundred and thirteen,* not over six stories in height, the industrial board [shall] finds that the requirements of this [and the last preceding] subdivision [relating to stairway enclosures] can be dispensed with or modified without endangering the safety of *employees* [persons employed in such buildings, the industrial board shall have power to] *it may* adopt [such] rules [and regulations, as may, in its opinion, meet the conditions existing in such buildings, which rules and regulations may make said requirements inapplicable or] modify [the same]*ing the requirements of this subdivision* in such manner as it [may] finds [to be] adapted to securing the safety of *employees.* [persons employed therein.] The industrial board [shall have power to] *may* adopt rules [and regulations,] permitting, under conditions therein prescribed, as a substitute for the stairway enclosures herein required the use of partitions [heretofore] constructed *before October first, nineteen hundred and thirteen,* in such manner and of such fire resisting material as [have heretofore been] *were* approved *before that date* by the local authorities exercising super-

vision over the construction and alteration of buildings. [In such cases, however, e]*Every* opening in the [enclosing] partitions *required by this subdivision or by rules adopted thereunder* shall be provided with fire doors *except where such openings are in the exterior wall of the building in which case if they are within thirty feet of another building they shall be provided with fireproof windows or fire doors.*

3. Width of stairways. All stairways erected after July first, nineteen hundred and fourteen, shall be not less than three feet wide.

[3]*4.* Doors. Where five or more persons are employed on any floor of a factory building *over one story in height* [every] *all* doors on such floor leading to or opening on any [means of] exit shall open outwardly or be double swinging doors *or be so constructed as to slide freely.* All exit doors in the first story, *in such buildings,* including the doors of the vestibule, shall open outwardly.

[4. Fire-escapes. All outside fire-escapes shall be constructed of wrought iron or steel and shall be so designed, constructed and erected as to safely sustain on all platforms, balconies and stairways a live load of not less than ninety pounds per square foot with a factor of safety of four. Wherever practicable, a continuous run or straight run stairway shall be used. On every floor above the first there shall be balconies or landings embracing one or more easily accessible and unobstructed openings at each floor level, connected with each other and with the ground by means of a stairway constructed as hereinafter provided and well fastened and secured. All openings leading to outside fire-escapes shall have an unobstructed width of at least two feet and an unobstructed height of at least six feet. Such openings shall extend to the floor level or within six inches thereof, shall be not more than seven inches above the floor of the fire-escape balcony, shall have metal frames or frames covered with metal and be provided with doors constructed of fireproof material and with wired glass where glass is used, except in cases where fire-escapes are hereafter erected on buildings constructed prior to October first, nineteen hundred and thirteen, of five stories or under in height, in which cases the provisions of subdivision five as to the use of steps to connect with the fire-escapes and as to the construction of openings leading to fire-escapes shall apply. All windows opening upon the course of the fire-escape shall be

fireproof windows. The balconies shall have an unobstructed width of at least four feet throughout their length and shall have a landing not less than twenty-four inches square at the head of every stairway. There shall be a passageway between the stairway opening and the side of the building at least eighteen inches wide throughout except where the stairways reach and leave the balconies at the ends or where double run stairways are used. The stairway opening of the balconies shall be of a size sufficient to provide clear headway and shall be guarded on the long side by an iron railing not less than three feet in height. Each balcony shall be surrounded by an iron railing not less than three feet in height, thoroughly and properly braced. The balconies shall be connected by stairways not less than twenty-two inches wide, placed at an incline of not more than forty-five degrees, with steps of not less than eight-inch tread and not over eight-inch rise and provided with a handrail not less than three feet in height. The treads of such stairways shall be so constructed as to sustain a live load of four hundred pounds per step with a factor of safety of four. There shall be a similar stairway from the top floor balcony to the roof, except where the fire-escape is erected on the front of the building. A similar stairway shall also be provided from the lowest balcony to a safe landing place beneath, which stairway shall remain down permanently or be arranged to swing up and down automatically by counterbalancing weights. When not erected on the front of the building, safe and unobstructed egress shall be provided from the foot of the fire-escape by means of an open court or courts or a fireproof passageway having an unobstructed width of at least three feet throughout leading to the street, or by means of an open area having communication with the street; such fireproof passageway shall be adequately lighted at all times and the lights shall be so arranged as to ensure their reliable operation when through accident or other cause the regular factory lighting is extinguished.

5. The provisions of subdivision four shall not apply where at the time this act takes effect there are outside fire-escapes with balconies on each floor of the building connected with stairways placed at an angle of not more than sixty degrees, provided that such existing outside fire-escapes have or shall be provided with the following:

A stairway leading from the top floor balcony to the roof, except where the fire-escapes are erected on the front of the build-

ing; a stairway not less than twenty-two inches wide from the lowest balcony to a safe landing place beneath, which stairway remains down permanently or is arranged to swing up and down by counter-balancing weights; a safe and unobstructed exit to the street from the foot of such fire-escapes as provided in subdivision four hereof; steps connecting the sill of every opening leading to the fire-escapes with the floor wherever such sill is more than three feet above the floor level; and all openings leading to the fire escapes provided with windows having metal frames and sash or frames and sash covered with metal and with wired glass where glass is used, or with doors constructed in accordance with the requirements of subdivision four; and all windows opening upon the course of the fire-escape provided with fireproof windows.]

Note.— This section covers subs. 1, 2 and 3 of old § 79-f, with changes indictated in the text. Old § 79-f, sub. 4, is covered by new § 253. Section79-i, sub. 5, is covered by new § 254.

§ [79-c] *252.* Additional requirements common to *all* buildings [heretofore and hereafter erected]. No factory shall be conducted in any building unless such building shall be so constructed, equipped and maintained in all respects as to afford adequate protection against fire to all persons employed therein, nor *two hundred and fifty,* in the case of a building [hereafter] unless, in addition to the requirements of section [seventy-nine-a] erected *after October first, nineteen hundred and thirteen,* or of section [seventy-nine-b] *two hundred and fifty-one,* in the case of a building [heretofore] erected *before that date,* such building shall conform to the following requirements:

1. Access to exits. Safe and continuous passageways with an unobstructed width of at least three feet throughout their length and leading directly to every exit including fire-escapes and passenger elevators, shall be maintained at all times on every floor of the building. Every exit shall be maintained in an unobstructed condition.

[1]*2.* Stairways. Stairways shall be provided with proper [and substantial] hand-rails. Where the stairway is enclosed by fireproof partitions the bottom of the enclosure shall be of fireproof material at least four inches thick unless the fireproof partitions extend to the cellar bottom. [All stairways that extend to the top story shall be continued to the roof.]

[2]*3.* Doors and windows. *No door leading out of any factory or constituting an entrance to the factory building shall be locked,*

bolted or fastened during working hours. No door, window or other opening on any floor of a factory building shall be obstructed by stationary metal bars, grating or wire mesh. Metal bars, grating or wire mesh provided for any such door, window or other opening shall be so constructed as to be readily movable or removable [from both sides] in such manner as to afford the free and unobstructed use of such door, window or other opening as a means of egress in case of need [and they]. *Such obstructions* shall be left unlocked during working hours.

4. Every door opening on a stairway or other [means of] exit shall so open as not to obstruct the passageway.

5. A clearly painted sign marked " exit " in letters not less than eight inches in height shall be placed over all [exits] *openings* leading to stairways and other [means of egress] *exits*, and in addition a red light shall be placed over all such [exits] *openings* for use in time of darkness.

[3. Access to exits. There shall at all times be maintained continuous, safe, unobstructed passageways on each floor of the building, with an unobstructed width of at least three feet throughout their length leading directly to every means of egress, including outside fire-escapes and passenger elevators. All means of egress shall be maintained in an unobstructed condition. No door leading into or out of any factory or any floor thereof shall be locked, bolted or fastened during working hours.]

4. Regulation by industrial board. The industrial board [shall have power to] *may* adopt rules [and regulations] and establish requirements and standards for construction, equipment and maintenance of factory buildings or of particular classes of factory buildings and the means and adequacy of exit therefrom in order to carry out the purposes of this chapter in addition to the requirements of this section and of sections [seventy-nine-a and seventy-nine-b, and not inconsistent therewith.] *two hundred and fifty, two hundred and fifty-one, and two hundred and fifty-two.*

Note.— Rewritten from old § 79-c, with subdivisions rearranged; changes indicated.

§ 253. Fire-escapes erected after October first, nineteen hundred and thirteen. All outside fire-escapes erected after October first, nineteen hundred and thirteen, whether serving as required exits or otherwise shall conform to the following requirements:

1. They shall be built of wrought iron or steel and shall be so constructed and erected as to safely sustain on all platforms, balconies and stairways a live load of not less than ninety pounds per square foot with a factor of safety of four.

2. Whenever practicable a continuous run or straight run stairway shall be built.

3. All openings leading thereto shall have an unobstructed width of at least two feet and an unobstructed height of at least six feet. Such openings shall extend to the floor level or within six inches thereof, shall be not more than seven inches above the floor of the fire-escape balcony and shall be provided with fire doors, except in buildings five stories or under in height erected prior to October first, nineteen hundred and thirteen, in which case the provisions of subdivisions five and six of section two hundred and fifty-four with reference to sills leading to fire-escapes and openings leading to fire-escapes shall apply.

4. All windows above the ground floor opening upon the course of the fire-escape shall be fireproof windows.

5. On every floor above the first there shall be a balcony firmly fastened to the building and embracing one or more easily accessible and unobstructed openings. The balconies shall have a width of at least four feet throughout their length and shall have a landing not less than twenty-four inches square at the head of every stairway. There shall be a passageway between the stairway opening and the side of the building at least eighteen inches wide throughout except where the stairways reach and leave the balconies at the ends or where double run stairways are used. The stairway opening of the balconies shall be of a size sufficient to provide clear headway and shall be guarded on the long side by an iron railing not less than three feet in height. Each balcony shall be surrounded by an iron railing not less than three feet in height properly braced.

6. The balconies shall be connected by stairways not less than twenty-two inches wide placed at an incline of not more than forty-five degrees, with steps of not less than eight-inch tread and not over eight-inch rise and provided with a handrail not less than three feet above the treads. The treads of such stairways shall be so constructed as to sustain a live load of four hundred pounds per step with a factor of safety of four.

7. There shall be a similar stairway from the top floor balcony to the roof, except where the fire-escape is erected on the front of the building.

8. A similar stairway shall also be provided from the lowest balcony to a safe landing place beneath, which stairway shall remain down permanently or be arranged to swing up and down automatically by counterbalancing weights.

9. When not erected on the front of the building, safe and unobstructed egress shall be provided from the foot of the fire-escape by means of an open court or courts or a fireproof passageway having an unobstructed width of at least three feet throughout leading to the street, or by means of an open area having communication with the street. Such fireproof passageway shall be adequately lighted at all times and the lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory lighting is extinguished. If the factory is lighted by electricity such lights shall be on a separate circuit from the regular factory lighting system.

Note.— Taken from old § 79-b, sub. 4. Words "above the ground floor" in sub. 4 of new section are new as is last sentence of sub. 9.

§ *254. Fire-escapes erected before October first, nineteen hundred and thirteen. The industrial board may in its discretion adopt requirements as to outside fire-escapes erected before October first, nineteen hundred and thirteen, and not serving as required exits.*

All outside fire-escapes erected before October first, nineteen hundred and thirteen, and serving as required exits under the provisions of section two hundred and fifty-one shall conform to the following requirements:

1. There shall be balconies on each floor of the building connected with stairways placed at an incline of not more than sixty degrees.

2. A stairway shall lead from the top floor balcony to the roof, except when the fire-escapes are erected on the front of the building.

3. A stairway not less than twenty-two inches wide shall lead from the lowest balcony to a safe landing place beneath, which stairway shall remain down permanently or swing up and down by counterbalancing weights.

4. A safe and unobstructed exit shall be provided to the street from the foot of such fire-escapes as required in subdivision nine of section two hundred and fifty-three.

5. Steps shall connect the sill of every opening leading to the fire-escapes with the floor wherever such sill is more than three feet above the floor level.

6. All openings leading to the fire-escapes shall be provided with fireproof windows or fire doors.

7. All windows above the ground floor opening upon the course of the fire-escape, shall be fireproof windows.

8. The balconies and stairway openings shall be properly guarded by iron railings.

Note.— Taken from old § 79-b, sub. 5.

§ 255. Special laws and local ordinances. The requirements of sections two hundred and fifty to two hundred and fifty-four inclusive, are not in substitution for the requirements of any general or special law or local ordinance relating to the construction, equipment or maintenance of buildings, but the provisions of such general and special laws and local ordinances shall be observed as well as the provisions of said sections. The provisions of sections two hundred and fifty to two hundred and fifty-four inclusive shall supersede all provisions inconsistent therewith in any special law or local ordinance, and any provision of law or ordinance which gives power to any officer to establish requirements inconsistent with the provisions of such sections or the rules adopted by the industrial board under the provisions of this chapter.

Note.— Taken from § 79-d, sub. 1.

§ [79-d.] *256.* [Effect of foregoing provisions; i]*I*nspection of buildings and approval of plans. [1. Effect of foregoing provisions. The requirements of sections seventy-nine-a, seventy-nine-b and seventy-nine-c are not in substitution for the requirements of any general or special law or local ordinance relating to the construction, equipment or maintenance of buildings, but the provisions of such general and special laws and local ordinances shall be observed as well as the provisions of said sections. The provisions of sections seventy-nine-a, seventy-nine-b and seventy-nine-c shall supersede all provisions inconsistent therewith in any special law or local ordinance, and any provision of law or ordinance which gives power to any officer to establish requirements inconsistent with the provisions of such sections or the rules and regulations adopted by the industrial board under the provisions of this article.]

[2]*1.* Inspection of buildings. The officer of any city, village or town having power to inspect buildings therein for the purpose of

determining their conformity to the requirements of law or ordinance governing the construction thereof, shall, whenever requested by the commissioner [of labor], inspect any factory building therein and certify to the commissioner [of labor] in detail whether or not such building conforms to the requirements of this chapter and the rules [and regulations] of the industrial board, and such certificate shall be filed in the office of the commissioner [of labor] and shall be presumptive evidence of the truth of the matters therein stated.

[3]*2.* Approval of plans. Before construction or alteration of a building in which it is intended to conduct one or more factories, the plans and specifications for such construction or alteration may be submitted to the commissioner [of labor] and filed in his office in such form and with such information as may be required by him or by the rules [and regulations] of the industrial board, and if such plans and specifications comply with the requirements of this chapter and the rules [and regulations] of the industrial board, he shall issue his certificate approving the same, which certificate shall bear the date when issued. Whenever any certificate shall be issued by the commissioner [of labor] under this section the particulars of such certificate shall be recorded and indexed in the records of his office. Before issuing any such certificate the commissioner [of labor] may request the officer of the city, village or town in which such building is located having power to examine and pass upon plans for construction of buildings with reference to their conformity to the requirements of law or ordinance governing the construction thereof, to examine such plans and specifications and to certify to the commissioner [of labor] whether or not such plans and specifications conform to the requirements of this chapter and the rules [and regulations] of the industrial board[, and s]. *S*uch officer shall thereupon make such examination and so certify in detail to the commissioner [of labor and s]. *S*uch certificate shall be filed in the office of the commissioner [of labor] and shall be presumptive evidence of the truth of the matters therein stated.

[4]*3.* Certificate of compliance. After such construction or alteration shall be completed, the commissioner [of labor] shall, when requested by the owner or person filing such plans, ascertain by inspection or in the manner provided in subdivision [two] *one* of this section, whether such building conforms to the requirements of this chapter and the rules [and regulations] of the industrial

board; and if he finds that it does conform thereto, shall issue his certificate to that effect[, which]. *Such certificate* shall bear the date when issued.

Note.— Old § 79-d, sub. 1, is made new § 255.

§ [79-e.] *257.* Limitation of number of occupants. The number of persons [who may occupy any factory building or portion thereof above the ground floor shall be limited to such a number as can safely escape from such building by the means of exit provided in the building.

1. In buildings hereafter erected no more than fourteen persons shall be employed or permitted or suffered to work on any one floor for every full twenty-two inches in width of stairway conforming to the requirements for a required means of exit except as to extension to the roof, provided for such floor. No allowance shall be made for any excess in width of less than twenty-two inches.] *employed in a factory building on any floor above or below the ground floor shall not exceed the following:*

1. In any building erected after October first, nineteen hundred and thirteen, fourteen persons for every twenty-two inches in width of stairway provided for such floor and conforming to the requirements for required exits, except as to extension to the roof. No allowance shall be made for any excess in width of less than twenty-two inches.

2. In *any* building[s heretofore] erected [no more than] *before October first, nineteen hundred and thirteen,* fourteen persons, [shall be employed or permitted or suffered to work on any one floor] for every eighteen inches in width of stairway provided for such floor and conforming to the requirements for [a] required [means of] exits except as to extension to the roof [, and f]. *For* any excess in width of less than eighteen inches, a proportionate increase in the number of occupants shall be allowed. *If any stairway has winders a deduction of ten per centum shall be made in counting the capacity of such stairway.* Where the industrial board [shall] finds that the safety of the occupants of any such building will not be endangered thereby, it may allow an increase in the number of occupants of any floor in such building to a number not greater than at the rate of twenty persons for every eighteen inches in width of such stairway provided for such floor, with a proportionate increase in the number of occupants for any excess in width of less than eighteen inches.

3. [In any building for every additional sixteen inches over ten feet in height between two floors, one additional person may be employed on the upper of such floors for every eighteen inches in width of stairway leading therefrom to the lower of such floors in buildings heretofore erected, and one for every twenty-two inches in width of such stairway in buildings hereafter erected, provided that such stairways conform to the requirements for required means of exit except as to extension to the roof.

4. In any building, if any stairway has steps of the type known as "winders," a deduction of ten per centum shall be made in counting the capacity of such stairway.] *On any floor which is more than ten feet from the one immediately beneath, the number "fourteen" allowed in subdivisions one and two may be increased by one person for every sixteen inches over ten feet between the two floors.*

4. The number of persons employed on any floor under subdivisions one, two and three may be increased fifty per centum where there is maintained throughout the building an automatic sprinkler system conforming to the requirements of section two hundred and sixty and to the rules of the industrial board.

5. [In any building where the stairways and stairhalls are enclosed in fireproof partitions or where, at the time this act takes effect, the stairways and stairhalls are enclosed in partitions of brick, concrete, terra-cotta blocks or reinforced concrete constructed in a manner heretofore approved by the superintendent of buildings of the city of New York having jurisdiction if in such city, or elsewhere in the state, in a manner conforming to the rules and regulations to be adopted by the industrial board under the provisions of subdivision two of section seventy-nine-b, all openings in which enclosing partitions are or shall hereafter be provided with fireproof doors, in either of such cases so many additional persons may be employed on any floor as can occupy the enclosed stairhall or halls on that floor, allowing five square feet of unobstructed floor space per person.] *In any building where the stairways and stairhalls are enclosed by partitions as required by sections two hundred and fifty and two hundred and fifty-one, so many persons may be employed on any floor in addition to the number allowed in subdivisions one, two and three, as can occupy the enclosed stairhalls on that floor, allowing five square feet of unobstructed floor space per person.*

If the partitions have been constructed before October first, nineteen hundred and thirteen, they shall be built of brick, con-

crete, terra-cotta blocks or reinforced concrete and all openings therein provided with fire doors.

If in the city of New York such partitions shall have been constructed in a manner approved before October first, nineteen hundred and thirteen, by the superintendent of buildings having jurisdiction; if elsewhere, in a manner conforming to rules adopted by the industrial board under subdivision two of section two hundred and fifty-one.

6. [In any building where] *On any floor at which* a horizontal exit is provided [on any floor such number of] *so many* persons may be employed [on such floor] as can occupy the smaller of the [two] spaces [on such floor] on either side of the [fireproof partitions or] fire wall[s], or as can occupy the floor of an [adjoining or near-by] *adjacent* building which is connected with such floor by openings in the wall or walls between the buildings or by exterior balconies or bridges, in addition to the occupants of such connected floor in such [adjoining or near-by] *adjacent* building, allowing five square feet of unobstructed floor space per person *in either case.* [, provided that the partitions or walls or balconies through which the horizontal exit is provided to such other portion of the same building or to such adjoining or near-by building shall have doorways of sufficient] *The openings constituting such exits, or if such exits are balconies or bridges the openings leading thereto, shall be of sufficient aggregate* width to allow eighteen inches in width of openings for each fifty persons or fraction thereof [so permitted to be] employed on such floor in the case of horizontal exits [heretofore] constructed *before October first, nineteen hundred and thirteen,* and twenty-two inches in the case of horizontal exits [hereafter] constructed *after that date.*

7. In any *fireproof* building [heretofore] erected *before October first, nineteen hundred and thirteen,* [of fireproof construction,] where any floor is subdivided by *a* partition[s of brick, terra cotta or concrete and not less than four inches thick extending continuously from the fireproofing of the floor to the underside of the fireproofing of the floor above, with all openings protected by fireproof doors not less than forty-four inches nor more than sixty-six inches in width, and in which] *conforming to the requirements of this subdivision and* all the windows on such floor and on the two floors [directly underneath] *immediately beneath* are fireproof [windows, such number of] *so many* persons may be employed

on such floor as can occupy the smaller of the [two] spaces on either side of such partition[s], allowing five square feet of unobstructed floor space per person.[, provided there shall be on each side of said partitions at least one stairway conforming to the requirements for a required means of exit; and provided further that such partitions have doorways of sufficient width to allow eighteen inches in width of openings for each fifty persons or fraction thereof so permitted to occupy such floor, and that such doorways shall be kept unlocked and unobstructed during working hours.] The provisions of this subdivision shall apply to any fireproof building [heretofore] erected *before October first, nineteen hundred and thirteen,* which may hereafter be made to conform to the requirements of this [section.] *subdivision.*

The partition shall be of brick, terra cotta or concrete not less than four inches thick extending continuously from the fireproofing of the floor to the underside of the fireproofing of the floor above. All openings in the partition shall be protected by fire doors not less than thirty-six inches nor more than eight feet in width, which shall be kept unlocked and unobstructed during working hours. On each side of the partition there shall be at least one stairway conforming to the requirements for required exits. The partition shall have doorways of sufficient aggregate width to allow eighteen inches in width of openings for each fifty persons or fraction thereof employed on such floor.

[8. In any building the number of persons permitted to be employed on any one floor under the provisions of subdivisions one, two and three of this section may be increased fifty per centum where there is constructed, installed and maintained throughout the building an automatic sprinkler system conforming to the requirements of section eighty-three-b of this chapter and to the rules and regulations of the industrial board.]

8. [9.] In any building, the number of persons who may be employed on any [one] floor shall in no event exceed such number as can occupy such floor, allowing thirty-six square feet of floor space per person [if the] *in a non-fireproof* building [is not of fireproof construction,] and thirty-two square feet of floor space per person [if the] *in a fireproof* building. [is of fireproof construction.]

9. [10.] Where one floor is occupied by more than one tenant, the industrial board shall [have power to] make rules [and regulations] prescribing how many of the persons allowed to occupy

such floor under the provisions of this section, may occupy the space of each tenant.

10. [11. Posting.] In every factory[,] *building* two stories or over in height, the commissioner [of labor] shall cause to be posted *in a conspicuous place in every stairhall and workroom,* notices specifying the number of persons that may occupy each floor thereof in accordance with the provisions of this section. [Every such notice shall be posted in a conspicuous place in every stairhall and workroom.] If any [one] floor is occupied by more than one tenant, such notices shall be posted in the space occupied by each tenant, and shall state the number of persons that may occupy such space. Every [such] notice shall bear the date when posted. *Such notices shall not be removed without permission of the department.*

Note.— Taken from old § 79-e, with changes all indicated.

§ [83-a.] *258.* Fire alarm signal systems. [and fire drills. 1.] Every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor shall be equipped with a fire alarm signal system with a sufficient number of signals clearly audible to all occupants thereof. [The industrial board may make rules and regulations prescribing the number and location of such signals.] Such system shall be installed *and maintained in good working order.* [by the owner or lessee of the building and] *It* shall permit the sounding of all the alarms within the building whenever the alarm is sounded in any portion thereof. [Such system shall be maintained in good working order.] No person shall tamper with, or render ineffective any portion of [said] *the* system except to repair [the same] *it.* It shall be the duty of whoever discovers a fire to cause an alarm to be sounded immediately. *In the city of New York the fire commissioner of such city, and elsewhere, the commissioner of labor shall enforce this section.*

[2. In every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of such building shall participate simultaneously shall be conducted at least once a month.

In the city of New York the fire commissioner of such city, and in all other parts of the state, the state fire marshal shall cause to be organized and shall supervise and regulate such fire

drills, and shall make rules, regulations and special orders necessary or suitable to each situation and in the case of buildings containing more than one tenant, necessary or suitable to the adequate co-operation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules, regulations and orders may prescribe upon whom shall rest the duty of carrying out the same. Such special orders may require posting of the same or an abstract thereof. A demonstration of such fire drill shall be given upon the request of an authorized representative of the fire department of the city, village or town in which the factory is located, and, except in the city of New York, upon the request of the state fire marshal or any of his deputies or assistants.

3. In the city of New York the fire commissioner of such city, and elsewhere, the state fire marshal is charged with the duty of enforcing this section.]

Note.— Subdivision 2 of old § 83-a is made new § 259.

§ *259. Fire drills. In every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of such building shall participate simultaneously shall be conducted at least once a month.*

In the city of New York the fire commissioner of such city, and elsewhere the commissioner of labor shall enforce this section and shall cause to be organized and shall supervise and regulate such fire drills, and shall make rules, regulations and special orders necessary or suitable to each situation and in the case of buildings containing more than one tenant, necessary or suitable to the adequate co-operation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules, regulations and orders may prescribe upon whom shall rest the duty of carrying out the same and may require posting of the same or an abstract thereof. A demonstration of such fire drill shall be given upon the request of an authorized representative of the fire department of the city, village or town in which the factory is located, and, except in the city of New York, upon the request of the commissioner of labor or any of his deputies or assistants.

Note.— Taken from old § 83-a, sub. 2.
Jurisdiction outside of New York city transferred from state fire marshal to commissioner of labor.

§ [83-b.] *260.* Automatic sprinklers. In every factory building [over seven stories or over ninety feet in height] in which wooden flooring or wooden trim is used and more than two hundred people are regularly employed above the seventh floor or more than ninety feet above the ground level of [such] *the* building, the owner of the building shall install an automatic sprinkler system approved as to form and manner *of construction and installation* in the city of New York by the fire commissioner of such city, and elsewhere by the [state fire marshal.] *commissioner of labor. Such automatic sprinkler system shall at all times be maintained in good working order.* [Such installation shall be made within one year after this section takes effect, but the fire commissioner of the city of New York in such city, and the state fire marshal elsewhere may, for good cause shown, extend such time for an additional year. A failure to comply with this section shall be a misdemeanor as provided by section twelve hundred and seventy-five of the penal law and t]*The provisions hereof shall* [also] be enforced in the city of New York by the fire commissioner of such city [in the manner provided by title three of chapter fifteen of the Greater New York charter], and elsewhere by the [state fire marshal in the manner provided by article ten-a of the insurance law] *commissioner of labor.*

§ [83-c.] *261.* Fireproof receptacles[; gas jets; smoking]. [1.] Every factory shall be provided with properly covered fireproof receptacles, the number, style and location of which shall be approved in the city of New York by the fire commissioner, and elsewhere, by the commissioner of labor. There shall be deposited in such receptacles all [inflammable] waste materials, cuttings and rubbish *of an inflammable nature.* No waste materials, cuttings or rubbish shall be permitted to accumulate on the floors of any factory but shall be removed therefrom not less than [twice] *once* each day. All [such] waste materials, cuttings and rubbish *of an inflammable nature* shall be entirely removed from a factory building at least once in each day, except that baled waste material may be stored in fireproof enclosures. [provided that a]*All* such baled waste material shall be removed from such building at least once in each month.

[2. All gas jets or lights in factories shall be properly enclosed by globes, wire cages or otherwise properly protected in a manner approved in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor.

3. No person shall smoke in any factory. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall and every elevator car, and in every stair-hall and room on every floor of such factory in English and also in such other language or languages as the fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal shall enforce the provisions of this subdivision.]

Note.— Old § 83-c, subs. 2 and 3 made new §§ 262 and 263.

§ *262. Gas jets. All gas jets or other lights in factories shall be properly enclosed by globes, or wire cages or shall be otherwise properly protected in a manner approved in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor.*

Note.— Taken from old § 83-c, sub. 2.

§ *263. Smoking. No person shall smoke in any factory, but the industrial board in its rules may permit smoking in protected portions of a factory, or in special classes of occupancies where in its opinion the safety of the employees would not be endangered thereby. A notice of such prohibition stating the penalty for violation thereof shall be kept posted in every entrance hall, elevator car, stair-hall and room of a factory in English and also in such other language as the fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor shall enforce this section. Such notices shall be furnished by the officer charged with the enforcement of this section.*

Note.— Taken from old § 83-c, sub. 3. Important change in substance in first sentence giving power to industrial board to make exemptions.
Jurisdiction outside of New York city transferred from state fire marshal to commissioner of labor.

TITLE III. SANITATION.

§ [84] *270.* Cleanliness of *factory* rooms. Every room in a factory [and] *including* the floor[s], walls, ceiling[s], windows and every other part thereof and all fixtures therein shall at all times be kept in a clean and sanitary condition. The walls and ceiling[s] of [each] *such* room [in a factory] shall be *kept properly*

lime washed or painted, except when *otherwise properly finished* [properly tiled or covered with slate or marble with a finished surface. Such lime wash or paint shall be renewed whenever necessary as may be required by the commissioner of labor]. Floors *in a factory* shall, at all times, be maintained in a safe condition. No person shall [spit or] expectorate upon the walls, floors or stairs of any *factory* building. [used in whole or in part for factory purposes.] Sanitary cuspidors shall be provided, *where necessary* in every workroom in a factory in sufficient numbers. Such cuspidors shall be thoroughly cleaned daily. Suitable receptacles shall be provided and used for the storage of waste and refuse[; s]. *S*uch receptacles shall be maintained in a sanitary condition.

§ [84-a.] *271.* Cleanliness of factory buildings. Every part of a factory building and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept [clean, and shall be kept] free from any accumulation of dirt, filth, rubbish or garbage [in or on the same]. The roof, passages, stairs, halls, basements, cellars, privies, water-closets, [cesspools, drains] and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing, *cesspools and drains* thereof at all times kept in proper repair and in a [clean and] sanitary condition.

§ *272. Drinking water. 1. In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water.*

2. If such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals.

Note.— Taken from old § 88, sub. 1.

§ [88] *273.* [Drinking water, w]*W*ashrooms. [and dressing rooms. 1. In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water

used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals.]

[2.] *1.* In every factory there shall be provided and maintained for the use of employees [suitable] *adequate* and convenient washrooms *or washing facilities* [, separate for each sex, adequately equipped with washing facilities consisting of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water]. *Wherever required by the industrial board such washrooms and washing facilities shall be separate for each sex.* Every washroom shall be provided [with means for artificial illumination and] with adequate means of ventilation *and heating and with artificial illumination where necessary.* [All washrooms and washing facilities shall be constructed, lighted, heated, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board.]

2. In all factories where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases are present as an incident or result of the business or processes conducted by such factory [there shall be provided] *the* washing facilities [which] shall include hot water and soap and individual towels.

[3. Where females are employed the person operating the factory shall provide dressing or emergency rooms for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In every factory in which more than ten women are employed there shall be provided one or more separate dressing rooms in such numbers as required by the rules and regulations of the industrial board and located in such place or places as required by such rules and regulations, having an adequate floor space in proportion to the number of employees, to be fixed by the rules and regulations of the industrial board, but the floor space of every such dressing room shall in no event be less than sixty square feet; each dressing room shall be separated from any water closet compartment by adequate partitions and shall be provided with adequate means for artificial illumination; each dressing room shall be provided with suitable means for hanging clothes and with a suitable number of seats. All dressing rooms shall be enclosed by means of solid partitions

or walls, and shall be constructed, heated, ventilated, lighted and maintained in accordance with such rules and regulations as may be adopted by the industrial board with reference thereto.]

Note.— Sub. 3 of old § 88 is made new § 274.

§ *274. Dressing rooms. In every factory where females are employed a sufficient number of dressing rooms conveniently located shall be provided for their use. Each dressing room shall be properly ventilated and shall be enclosed by partitions or walls. Each dressing room shall be provided with adequate means for artificial illumination, suitable means for hanging clothes and a suitable number of seats and shall be properly heated and ventilated. Each dressing room shall be separated from any water closet compartment by adequate partitions. Adequate floor space shall be provided in dressing rooms in proportion to the number of employees.*

Note.— Taken from old § 88, sub. 3, except that provision in old section for dressing rooms where more than ten women are employed, is here omitted.

§ [88-a.] *275.* Water closets. 1. [In every factory t]*There* shall be provided *for every factory a sufficient number of* suitable and convenient water closets [separate for each sex, in such number and located in such place or places as required by the rules and regulations of the industrial board]. All water closets shall be maintained inside [the] factory *building* except where, in the opinion of the commissioner [of labor], it is impracticable to do so.

2. There shall be separate water closet compartments *or toilet rooms* for females, *constructed and maintained in accordance with the rules of the industrial board.* [to be used by them exclusively, and notice to that effect shall be painted on the outside of such compartments. The entrance to every water closet used by females shall be effectively screened by a partition or vestibule. Where water closets for males and females are in adjoining compartments, there shall be solid plastered or metal covered partitions between the compartments extending from the floor to the ceiling whenever any water closet compartments open directly into the workroom exposing the interior, they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited.]

3. The use of any form of trough water closet, latrine or school sink within any factory is prohibited *except as may be permitted*

by the industrial board in its rules. All such trough water closets, latrines or school sinks shall, before the first of October, nineteen hundred and [fourteen] *fifteen,* be completely removed and the place where they were located properly disinfected under the direction of the department [of labor. Such appliances shall be replaced by proper individual water closets, placed in water closet compartments, all of which shall be constructed and installed in accordance with rules and regulations to be adopted by the industrial board].

4. Every [existing] water closet and urinal *installed before October first, nineteen hundred and thirteen, for any factory* inside any factory *building* shall have a basin of enameled iron or earthenware, and shall be properly flushed [from a separate water-supplied cistern or through a flushometer valve connected in such manner as to keep the water supply of the factory free from contamination]. *All water closet compartments or toilet rooms constructed before October first, nineteen hundred and thirteen, shall have windows or suitable ducts leading to the outer air.*

5. All woodwork enclosing water closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. [The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted with a light-color paint.] All [existing] water closet compartments shall [have windows leading to the outer air and shall] be [otherwise] *properly* ventilated [in accordance with rules and regulations adopted for that purpose by the industrial board. Such compartments] *and* shall be provided with *adequate* means for artificial illumination. [and the enclosure of each compartment shall be kept free from all obscene writing or marking.

5.]*6.* All water closets, urinals, [and] water closet compartments *and toilet rooms* hereafter installed in a factory, including those provided to replace existing fixtures, shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules [and regulations] as may be adopted by the industrial board.

[6.]7. All water closet compartments, and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water closets and urinals shall at all times be [kept and] maintained in a clean and sanitary condition. *The floor or other surface beneath*

and around the closet shall be maintained in good order and repair and all the wood work shall be kept well painted. The enclosure of each compartment and toilet room shall be kept free from obscene writing or marking. Where the water supply to water closets or urinals is liable to freeze, the water closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with wool felt or hair felt, or other adequate covering.

[7. All water closets shall be constructed, lighted, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board.]

§ [92.] *276.* Laundries. A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to [the visitation and inspection of the commissioner of labor and] the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

§ [95.] *277.* Unclean factories. If the commissioner [of labor] finds evidence of contagious disease in any factory he shall affix to any articles therein exposed to such contagion a label containing the word " unclean " and shall notify the local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner [of labor] finds that any [workroom or] factory *or workroom therein* is foul, unclean, or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to any articles therein found a label containing the word " unclean." *With the exception of the local board of health,* [N]*o* one but [the commissioner of labor] *an authorized representative of the department* shall remove any label so affixed; and he may refuse to remove it until such articles [shall have been] *are* removed from such factory and cleaned, or until such *factory or* room [or rooms shall have been] *is* cleaned or made sanitary.

§ [98. Labor camps.] *278. Living quarters for factory employees.* Every employer operating a factory, and furnishing to the employees thereof any living quarters at any place outside the factory, either directly or through any third person by contract or otherwise, shall maintain such living quarters [and every part thereof] in a [thoroughly] sanitary condition. [The industrial board shall have power to make rules and regulations to provide for the sanitation of such living quarters. The commissioner of labor may enter and inspect any such living quarters.]

Note.— Last two sentences of old § 98 covered by general provisions.

§ [86.] *279.* Ventilation, *heat and humidity.* **1.** [The person operating e]*Every workroom in a* factory shall *be* provided *with* [, in each workroom thereof] proper and sufficient means of ventilation by natural or mechanical means or both, as may be necessary, and *there* shall *be* maintained *therein* proper and sufficient ventilation and proper degrees of temperature and humidity [in every workroom thereof] at all times during working hours. *If, owing to the nature of the manufacturing process carried on in a factory workroom, excessive heat be created therein, there shall be provided, maintained and operated such special means or appliances as may be required to reduce such excessive heat.*

2. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation. In case of wet-grinding it is unnecessary to comply with this subdivision unless required by the rules of the industrial board. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use. If in case of wood-working or grinding machinery, the industrial board decides that such apparatus is unnecessary for the health and welfare of the employees it may adopt rules excepting such machinery from the operation of this subdivision.

[2]*3.* If dust, gases, fumes, vapors, fibers or other impurities are generated or released in the course of the business carried on in any workroom of a factory, in quantities tending to injure the health of the [operatives, the person operating the factory, whether as owner or lessee of the whole or of a part of the building in which the same is situated, or otherwise, shall provide] *employees* suction devices *shall be provided* that shall remove said impurities from the workroom, at their point of origin where practicable, by means of proper hoods connected to conduits and exhaust fans of sufficient capacity to remove such impurities. [, and s]*S*uch fans shall be kept running constantly while such impurities are being generated or released. [If, owing to the nature of the manufacturing process carried on in a factory workroom, excessive heat be created therein the person or persons operating the factory as aforesaid shall provide, maintain, use and operate such special means or appliances as may be required to reduce such excessive heat.]

[3]*4.* The industrial board shall [have power to] make rules [and regulations] for and fix standards of ventilation, temperature and humidity in factories and [may] *shall* prescribe the special means, if any, required for removing impurities or for reducing excessive heat, and the machinery, apparatus or appliances to be used for any of said purposes, and the construction, equipment, maintenance and operation thereof, in order to effectuate the purposes of this section.

[4]*5.* If any requirement of this section or any rule [or regulation] of the industrial board made under the provisions thereof shall not be complied with, the commissioner [of labor] shall issue [or cause to be issued] an order directing compliance therewith [by the person whose duty it is to comply therewith] within [thirty days after the service of such order] *such time as he may deem necessary.* [Such person shall, in case of failure to comply with the requirements of such order, forfeit to the people of the state fifteen dollars for each day during which such failure shall continue after the expiration of such thirty days, to be recovered by the commissioner of labor. The liability to such penalty shall be in addition to the liability of such person to prosecution for a misdemeanor as provided by section twelve hundred and seventy-five of the penal law.

5. When the commissioner of labor shall issue, or cause to be issued, an order specified in subdivision four hereof h]*He* may in

such order require plans and specifications to be filed for any machinery or apparatus to be provided or altered, pursuant to the requirements of such order. In such case, before providing, or making any change or alteration in any machinery or apparatus for any of the purposes specified in this section, the person upon whom such order is served shall file with the commissioner [of labor] plans and specifications therefor, and shall obtain [the] *his* approval of such plans and specifications [by the commissioner of labor] before providing or making any change or alteration in any such machinery or apparatus.

Note.— All except sub. 2 taken from old § 86. Sub. 2 taken from old § 81, sub. 2, with added power to industrial board to exempt grinding machines.

§ [85.] *280.* Size of rooms. No more [employees] *persons* shall be [required or permitted to work] *employed* in a room in a factory [between the hours of six o'clock in the morning and six o'clock in the evening] than will allow each [of such employees, not less than] *person employed between the hours of six o'clock in the morning and six o'clock in the evening* two hundred and fifty cubic feet of air space; [and,] *nor* unless by a written permit of the commissioner [of labor, not less] than *will allow* four hundred cubic feet for each [employee, so] *person* employed between the hours of six o'clock in the evening and six o'clock in the morning. [, provided s] *Such* room [is] *shall be* lighted by electricity [at all times during such hours, while] *whenever* persons are employed therein *between the hours of six o'clock in the evening and six o'clock in the morning and artificial light is necessary.*

§ *281. Illumination. Every workroom in a factory shall be properly and adequately lighted during working hours. Artificial illuminants shall be installed, arranged and used so that the light furnished will at all times be adequate for the work carried on therein, and so as to prevent unnecessary strain on the vision or glare in the eyes of the workers.*

Note.— Taken from old § 81, sub. 4.

TITLE IV. FOUNDRIES.

§ [97. Brass, iron and steel f] *285.* Foundries. [1.] Foundries shall [be subject] *conform* to all the provisions of this chapter relating to factories[.] *and also to the following requirements:*

[2] *1.* All entrances [to foundries] shall be so constructed and maintained as to minimize drafts, and all windows [therein] shall be maintained in proper condition and repair.

[3]*2.* All gangways [in foundries] shall be constructed and maintained of sufficient width to make the use thereof by employees reasonably safe.[; d]*During the progress of casting such gangways shall not be obstructed in any manner.*

[4]*3.* Smoke, steam and gases generated in foundries shall be effectively removed therefrom, in accordance with such rules [and regulations] as may be adopted with reference thereto by the industrial board, and whenever required by the [regulations] *rules* of such board, exhaust fans of sufficient capacity and power, properly equipped with ducts and hoods, shall be provided and operated to remove such smoke, steam and gases. The milling and cleaning of castings, and milling of cupola cinders, shall be done under such conditions to be prescribed by the rules [and regulations] of the industrial board as will adequately protect the persons employed in foundries from the dust arising during the process.

[5]*4.* All foundries shall be properly and thoroughly lighted during working hours and in cold weather proper and sufficient heat shall be provided and maintained therein.

5. The use of heaters discharging smoke or gas into workrooms is prohibited *except that open fires may be used for drying purposes only, under conditions prescribed by the industrial board in its rules.* [In all foundries s] *S*uitable provision [s] shall be made and maintained for drying the working clothes of [persons employed therein] *employees.*

[6. In every foundry in which] *6. Where* ten or more persons are employed [or engaged at labor,] there shall be provided and maintained [for the use of employees therein] suitable and convenient washrooms [of sufficient capacity] adequately equipped with hot and cold water service.[; s]*S*uch washrooms shall be kept clean and sanitary and shall be properly heated during cold weather. In every such foundry lockers shall be provided for the safe-keeping of employees' clothing[. In every foundry in which more than ten persons are employed or engaged at labor where] *and if outside* water closets or privy accommodations are permitted by the commissioner [of labor to remain outside of the factory under the provisions of section eighty-eight of this chapter,] the passageway leading from the foundry to the [said] water-closets or privy accommodations shall be so protected and constructed that the employees in passing thereto or therefrom shall not be exposed to outdoor atmosphere and such

water-closets or privy accommodations shall be properly heated during cold weather.

7. The flasks, molding machines, ladles, cranes and apparatus for transporting molten metal [in foundries] shall be maintained in proper condition and repair, and any such tools or implements that are defective shall not be used until properly repaired.

8. There shall be [in every foundry,] available for immediate use, an ample supply of lime water, olive oil, vaseline, bandages and absorbent cotton, to meet the needs of workmen in case of burns or other accidents; but any other equally efficacious remedy for burns may be substituted for those herein prescribed.

TITLE V. DUTIES OF OWNERS AND OCCUPIERS.

§ [94. Tenant-factories] *286. Duties of owners and occupiers.* *1. Except as in this article otherwise provided the person operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.*

2. The term "owner" when used in this article means the owner of the freehold of the premises, or the lessee of the whole thereof, or the agent in charge of the property.

3. [A tenant-factory within the meaning of the term as] *The term "tenant-factory building" when* used in this [chapter is] *section means* a building, separate parts of which are occupied and used by different persons, [companies or corporations,] and one or more of which parts is [so] used as [to constitute in law] a factory.

4. The owner[,] *of a tenant-factory building,* whether or not he is also one of the occupants, instead of the respective [lessees or] tenants, shall be responsible for the observance [and punishable for the nonobservance] of the following provisions of this article, anything in any lease to the contrary notwithstanding[, — namely, the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except]*:*

Section 235. Elevators and hoistways.
250. Construction of buildings erected after October first, nineteen hundred and thirteen.

251. Requirements for buildings erected before October first, nineteen hundred and thirteen.
252. Additional requirements common to all buildings, except subdivisions one, three and five thereof.
253. Fire escapes erected after October first, nineteen hundred and thirteen.
254. Fire escapes erected before October first, nineteen hundred and thirteen.
258. Fire alarm signal systems.
260. Automatic sprinklers.
272. Drinking water, except subdivision two thereof.
273. Wash rooms, except subdivision two thereof.
275. Water closets, except subdivision seven thereof.

Except that the [lessees or] tenants also shall be responsible for the observance [and punishable for the nonobservance] of the provisions of sections [seventy-nine, eighty, eighty-six and ninety-one] *two hundred and thirty-five, two hundred and fifty-one, two hundred and fifty-two, two hundred and fifty-three, two hundred and fifty-four, two hundred and fifty-eight, two hundred and seventy-two, two hundred and seventy-three and two hundred and seventy-five,* within their respective holdings. *The owner shall also be responsible for all other provisions of this article in so far as they affect those portions of the tenant-factory building that are used in common or by more than one occupant.* [The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are neces-

sary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areaways, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property.]

5. The [lessee or] tenant of any part of a tenant-factory *building* shall permit the owner, his agents and [servants,] *employees* to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. [And w] *W*henever by the terms of a lease any [lessee or] tenant [shall have] *has* agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. [Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.]

[§ 96. Definition of "custodian." The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.]

Note.— Important changes. All clearly indicated in text.

ARTICLE [8] *11.*

BAKERIES AND [CONFECTIONERIES] *MANUFACTURE OF FOOD PRODUCTS.*

[Section 110. Enforcement of article.
111. Definitions.
112. General requirements.

113. Maintenance.
113-a. Prohibited employment of diseased bakers.
114. Inspection of bakeries.
115. Sanitary certificates.
116. Prohibition of future cellar bakeries.
117. Sanitary code for bakeries and confectioneries.]

Section 295. Definitions.
296. Construction.
297. Maintenance and operation.
298. Prohibited employment of diseased bakers.
299. Respective duties of owners and occupiers.
300. Manufacture of other food products.
301. Sanitary certificates.
302. Cellar bakeries.
303. Enforcement of article.

§ [111] *295.* Definitions. *The term "bakery" when used in this chapter means* [All] *any* building[s], room[s] or place[s] used or occupied for the purpose of making, preparing or baking bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni or spaghetti to be sold or consumed on or off the premises, except [kitchens in] hotels, restaurants, boarding houses or private residences wherein [such] *all such* products [are prepared to be used and] are used exclusively on the premises;[, shall for the purpose of this article be deemed bakeries. The commissioner of labor shall have the same powers] *and* with respect to the *provisions of this chapter relating to* machinery, safety devices and sanitary conditions *includes* [in] hotel bakeries [that he has with respect thereto in bakeries as defined by this chapter. In cities of the first class the health department's jurisdiction over hotel bakeries shall not extend to the machinery safety devices and hours of labor of employees therein].

The term "cellar" when used in this article [shall] means a room or a part of a building which is more than one-half its height below the level of the curb or ground *outside of or* adjoining the [building (excluding areaways)] *same.*

The term "owner" [as] *when* used in this article [shall be construed to] means the owner [or owners] of the freehold of the premises, or the lessee [or joint lessees] of the whole thereof, or [his, her or] the[ir] agent in charge of the property.

The term "occupier" *when used in this article* [shall be construed to] means the person[, firm or corporation] in actual pos-

session of the premises, who either himself makes, prepares or bakes any of the articles mentioned in this section, or [hires or] employs others to do it for him.

Bakeries are factories within the meaning of this chapter, and subject to all the provisions of article [six] *ten* hereof.

Note.— The provision of old § 111 at the end of definition of "bakery," relating to enforcement, covered by new § 303. Definition of "cellar" altered to conform with the provision now in old § 100, sub. 6, and the decision in People v. Butler, 125 App. Div. 384, interpreting the words "or ground outside of or adjoining the same."

§ [112] *296.* [General requirements.] *Construction.* [All bakeries.] *1. Every bakery* shall be provided with proper and sufficient drain[age]*s,* [and with suitable] sinks [supplied with], clean running water [for the purpose of washing and keeping clean the utensils and apparatus used therein], *and properly ventilated water-closets; and the water-closets shall be apart from and not open directly into the bakeroom or rooms where the raw material or manufactured product thereof is stored or sold.* [All bakeries]

2. Every bakery shall be provided with [proper and] adequate windows. [, and if required by the rules and regulations of the industrial board, with v]*V*entilating hoods and pipes over ovens and ashpits, or [with] other mechanical means [, to so ventilate same as] *of ventilation shall also be provided if necessary,* to render harmless to the persons working therein any steam, gases, vapors, dust, excessive heat or [any] impurities that may be generated or released by or in the process of making, preparing or baking [in said bakeries].

3. Every *part of a* bakery shall be at least eight feet in height measured from the surface of the finished floor to the under side of the ceiling [and shall have a flooring of even, smooth cement, or of tiles laid in cement, or a wooden floor, so laid and constructed as to be free from cracks, holes and interstices], except that any cellar or basement *of* less [than eight feet in] height which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to this provision [with respect to height;].

4. The flooring shall be of smooth, even cement, tiles laid in cement, or wood, and shall be free from cracks, holes and interstices, and the side walls and ceilings shall be [either plastered, ceiled or wainscoted.] *properly constructed and maintained.* [Every bakery shall be provided with a sufficient number of water-

closets, and such water-closets shall be separate and apart from and unconnected with the bakeroom or rooms where food products are stored or sold.]

§ [113] *297.* Maintenance *and operation. 1.* All floors, walls, stairs, shelves, furniture, utensils, yards, areaways[,] *and* plumbing [drains and sewers], in or in connection with bakeries, or in bakery water-closets and wash-rooms, or rooms where raw material[s are stored,] or [in rooms where] the manufactured product is stored *or sold*, shall [at all times] be kept in good repair, [and maintained] in a clean and sanitary condition, *and* free from all [kinds of] vermin. *All furniture, troughs and utensils shall be so constructed and arranged as not to prevent cleaning them or any part of the bakery.* All interior woodwork, walls and ceilings shall be *kept properly* painted [or limewashed] *except when otherwise properly finished.* [once every three months, where so required by the commissioner of labor. Proper s]

*2. S*anitary receptacles shall be provided and used for [storing] coal, ashes, refuse and garbage[.], [Receptacles for refuse and garbage shall have their] *and the* contents *of the receptacles for refuse and garbage shall be* removed from bakeries daily and *such receptacles* shall be maintained in a clean and sanitary condition at all times[; the use of tobacco in any form in a bakery or room where raw material or manufactured product of such bakery is stored is prohibited. No person shall sleep, or be permitted, allowed or suffered to sleep in a bakery, or in any room where raw material or the manufactured product of such bakery is stored or sold, and no domestic animals or birds, except cats shall be allowed to remain in any such rooms]. Mechanical means of ventilation, when provided, shall be effectively used and operated. Windows, doors and other openings shall be provided with proper screens. [All employees, while engaged in the manufacture and handling of bread shall wear slippers or shoes and suits of washable material which shall be used for that purpose only and such garments shall be kept clean at all times.] Lockers shall be provided for the street clothes of the employees. [The furniture, troughs and utensils shall be so arranged and constructed as not to prevent their cleaning or the cleaning of every part of the bakery.]

3. No person shall use or be permitted to use tobacco in any form in a bakery or room where the raw material or manufactured product of such bakery is stored or sold.

4. No person shall sleep or be permitted to sleep and no domestic animals, except cats, and no birds shall be allowed to remain in a bakery or room where the raw material or manufactured product of such bakery is stored or sold.

5. Every person, while engaged in the manufacture and handling of bread or other products of the bakery, shall wear a clean suit, which shall be made of washable material and used for that work only, and clean shoes or slippers.

Note.— No change in substance except sub. 5, in which words "or other products of the bakery" are new.

§ [113-a.] *298.* Prohibited employment of diseased bakers. No person who has any communicable disease shall work or be permitted to work in a bakery. Whenever required by a medical inspector of the department [of labor], any person [employed] *working* in a bakery shall submit to a physical examination by such inspector. No person who refuses to submit to such examination shall *during the period of such refusal* work or be permitted to work in a[ny] bakery.

[§ 114. Inspection of bakeries. It shall be the duty of t] § *299. Respective duties of owners and occupiers.* The owner [of a building wherein a bakery is located to] *shall* comply with [all the provisions of] section [one hundred and twelve of this article,] *two hundred and ninety-six* and [of] the occupier [to] *shall* comply with [all the provisions of] sections [one hundred and thirteen of this article,] *two hundred and ninety-seven and two hundred and ninety-eight* unless by the terms of a valid lease [the responsibility for compliance therewith has been undertaken by] the other party [to the lease] *thereto has undertaken to comply with any provision of such sections,* and a duplicate original lease, containing such obligation, [shall] ha[ve]*s* been previously filed in the office of the commissioner [of labor], in which event the party assuming the responsibility shall be responsible for [such] compliance. [The commissioner of labor may, in his discretion, apply any or all of the provisions of this article to a factory located in a cellar wherein any food product is manufactured, provided that basements or cellars used as confectionery or ice-cream manufacturing shops shall not be required to conform to the requirement as to height of rooms. Such establishments shall be not less than seven feet in height, except that any cellar or basement so used before October first, nineteen hundred and six, which

is more than six feet in height need not be altered to conform to this provision.

If on inspection the commissioner of labor find a bakery or any part thereof to be so unclean, ill-drained or ill-ventilated as to be unsanitary, he may, after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it shall be properly cleaned, drained or ventilated. If such bakery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery be properly cleaned, drained or ventilated.]

§ *300. Manufacture of other food products. 1. Every factory wherein any food product is manufactured shall be kept in a sanitary condition and properly lighted and ventilated, and the food product prepared therein shall be protected from contamination.*

2. Every basement or cellar used as a confectionery or ice-cream manufacturing shop shall be not less than seven feet in height measured from the surface of the finished floor to the underside of the ceiling, except that any cellar or basement which is more than six feet in height and was so used before the first day of October, nineteen hundred and six, need not be altered to conform to this provision.

Note.— Sub. 1 is a revision of the first sentence of § 117; sub. 2, a revision of the second and third sentences of old § 114.

§ [115] *301.* Sanitary certificates. 1. No person[, firm or corporation] shall establish[, maintain] or operate a bakery without [obtaining] a sanitary certificate [from the department of labor]. *The certificate shall be kept posted in a conspicuous place in the bakery.*

2. Application for [such] *a* certificate shall be made to the commissioner [of labor] by the occupier [of the bakery] or [by]

the person[, firm or corporation] desiring to establish or [conduct] *operate* [such] *the* bakery. The application [for a sanitary certificate] shall be made [in such form and shall contain such information as the commissioner of labor may require. Blank applications for such certificate shall be] *upon blanks* prepared and furnished by the commissioner [of labor].

[2. Upon the receipt of such application for a sanitary certificate,]

3. Before issuing a certificate the commissioner [of labor] shall [cause an] inspect[ion to be made of] the building, room or place described in the application. If the bakery conforms to the provisions of articles [six and eight] *ten and eleven* [of this chapter] and the rules [and regulations] of the industrial board, or in any city of the first class if the bakery conforms to the provisions of article [eight] *eleven* [of this chapter], and [to] the sanitary code and the rules [and regulations] of the department of health of any such city, the commissioner [of labor] shall issue a sanitary certificate for such bakery[. Such certificate shall be] for a period of one year and shall [be] renew[ed] *it* annually *unless* [by the commissioner of labor if] upon a reinspection of the bakery it is found *not* to comply with the aforesaid provisions and [regulations] *rules.* [Every certificate granted under the provisions of this chapter shall be posted in a conspicuous place in the bakery for which such certificate is issued.]

[3. Such] *4. The* certificate may be revoked *or suspended* [at any time] by the commissioner [of labor] if the health of the community or of the employees of the bakery requires such action, or if an order of the [department issued under the provisions of this chapter be] *commissioner is* not complied with within fifteen days after the service thereof upon the person[, firm or corporation] charged with the duty of compl[ying with such order] *iance.* The time for [such] compliance may be extended by the commissioner [of labor] for good cause shown, but a statement of the reasons for such extension shall be filed in [the office of the department of labor as part of] the public records [thereof] *of his office.* [Nothing contained in this subdivision shall be construed to limit in any way the power of the commissioner of labor to seal up an unsanitary bakery as provided in section one hundred and fourteen of this chapter.]

[4] *5.* If an application for a [sanitary] certificate [be] *is* denied or if [such] *a* certificate [be] *is* revoked *or suspended* by the commissioner [of labor], he shall file in [the office of the department of labor as part of] the public records *of his office* [thereof], a statement [in writing setting forth] in detail *of* the reasons for [such denial or revocation.] *his action.*

[5. Applications for sanitary certificates for existing bakeries shall be made within four months after this act takes effect, and no such bakery shall be conducted or operated without a sanitary certificate from the department of labor after the first day of January, nineteen hundred and fourteen. In the case of bakeries hereafter established, the application for a sanitary certificate shall be made within ten days after such bakery shall commence business, and no such bakery shall be conducted or operated without a sanitary certificate for more than thirty days after commencing business.]

6. If a bakery has no [sanitary] certificate as herein required or if such certificate has been revoked *or suspended*, the commissioner [of labor shall] *may*, after first making and filing in the public records of his office *an* [written] order stating the reasons therefor, [at once and] without further notice fasten up and seal the oven or other cooking apparatus of said bakery, *and may affix to all materials and utensils in the bakery conspicuous labels or signs bearing the word "unclean."* No one but the commissioner of labor or his duly authorized representative shall remove *or deface* any such seal, *label or sign*, and he shall not remove [same] *it* until a [sanitary] certificate [has been] *is* issued *or reissued* to [such] *the* bakery.

§ [116] *302.* [Prohibition of future c]*C*ellar bakeries. *1.* No bakery shall hereafter be located in a cellar, [and a sanitary certificate shall not be issued for any bakery so located, unless such bakery] *which does not conform to all the provisions of this section, unless a certificate of exemption has been issued to the owner under the provisions of the law in effect on or before the twenty-eighth day of February, nineteen hundred and fourteen.*

2. The cellar shall be at least ten feet in height measured from the surface of the finished floor to the under side of the ceiling [, and i]. *I*f the bakery is located [or intended to be located] entirely in the front part of the building, the ceiling of the bakery shall be *not less than* [in every part at least] four feet six inches above the curb level of the street in front of the building, or if

[such bakery is located or intended to be] located entirely in the rear part of the building or [to] extend*ing* from the front to the rear, the ceiling [of the bakery] shall be not less than one foot above the curb level of the street in front of the building and the bakery shall open upon a yard or courts which shall extend at least six inches below the floor level of the bakery.

3. [, nor unless proper and a] *A*dequate provision shall be made for the lighting and ventilation of such bakery and for the proper construction of the floor, walls and ceiling thereof, and *the bakery shall be constructed in accord with* plans and specifications [for the construction and establishment of such bakery], *prepared* in such form [and covering such matters] as the commissioner [of labor] may require, [shall] *which* have been [first] submitted to and approved by the commissioner [of labor]. [This prohibition shall not apply to a cellar used and operated as a bakery at any time within one year prior to the date of the passage of this act, provided that satisfactory proof of its use as a bakery as herein specified be furnished to the commissioner of labor in such form as he may require within six months after this act shall take effect, nor shall it apply to the cellar of a building in the course of construction on the ninth day of May, nineteen hundred and thirteen, nor to the cellar of a building the construction of which was commenced after the first day of January, nineteen hundred and thirteen, and completed on or before the ninth day of May, nineteen hundred and thirteen, provided that such cellar be used and operated as a bakery at any time prior to the first day of January, nineteen hundred and fourteen, and that satisfactory proof of the time of the construction of such building and of the use of the cellar as a bakery as herein specified be furnished to the commissioner of labor, in such form as he may require, on or before the twenty-eighth day of February, nineteen hundred and fourteen. Upon receipt of such proof the commissioner of labor shall issue to the owner of the building in which such cellar is located, a certificate of exemption.]

4. This section shall not prevent the [local] health [authorities] *departments* in [any] cit[y]*ies* of the first class from exercising any power of regulation now *or hereafter* vested in them.

[§ 117. Sanitary code for bakeries and confectioneries. All factories wherein any food product is manufactured shall be kept in a thoroughly sanitary condition and shall be properly lighted

and ventilated, and all necessary methods shall be employed to protect the food product prepared therein from contamination. The industrial board may adopt rules and regulations for carrying into effect the provisions of this article. Such rules and regulations shall be known as the sanitary code for bakeries and confectioneries and shall not apply to cities of the first class.]

§ [110] *303.* Enforcement of article. [In every city of the first class the health department of such city shall have exclusive jurisdiction to enforce the provisions of this article. In the application of any provision of this article to any city of the first class, the words "commissioner of labor" or "department of labor" shall be understood to mean the health department of such city.] *1. The commissioner shall, except in cities of the first class, enforce the provisions of this article.*

2. In cities of the first class, the health departments thereof shall enforce the provisions of this article, and for that purpose shall possess all powers conferred by this chapter upon the commissioner, the industrial board, or any officer of the department of labor.

3. The rules of the industrial board made for the purpose of carrying into effect the provisions of this article shall not apply in cities of the first class.

ARTICLE 12.

TENEMENT-MADE ARTICLES.

Section 310. Definitions.
311. Article not to apply to certain shops in tenements.
312. Tenement house license.
313. Manufacturing of certain articles in tenements prohibited.
314. Work in cellars prohibited.
315. Prohibition of manufacturing by persons other than members of the family.
316. Cleanliness and ventilation.
317. Articles not to be manufactured in tenements in which there is disease.
318. Articles unlawfully manufactured not to be sold.
319. Articles unlawfully manufactured to be labeled.
320. Register of persons to whom work is given; identification label.
321. Manufacturing in unclean tenements prohibited.

322. Owners of tenement houses not to permit the unlawful use thereof.
323. Powers and duties of boards of health.
324. Issuance of tenement house licenses.
325. Dressmakers' permit.
326. Permit to give out goods to a tenement house.

§ 310. Definitions. The term "tenement house," when used in this article, means any house or building or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied in whole or in part as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so occupied, and includes any building which is on the same lot with any such tenement house and is used for any purpose specified in section three hundred and twelve.

The terms "manufacture" and "manufactured" when used in this article include preparing, altering, repairing or finishing in whole or part.

Note.— Definition of "tenement house" taken from old § 2. Definition of "manufacture" and "manufactured" new, to obviate the necessity of repetition throughout the article.

§ 311. Article not to apply to certain shops in tenements. This article does not apply to a tenement house if the only manufacturing therein is carried on in a shop which is on the main or ground floor, has a separate entrance to the street, is unconnected with any living rooms, is entirely separated from the rest of the building by solid partitions, and is not used for sleeping or cooking.

Note.— Takes the place of the last sentence of old § 100, sub. 6.

§ 312. Tenement house license. No room or apartment of a tenement house shall be used for the purpose of manufacturing therein any articles except collars, cuffs, shirts or shirtwaists made of cotton or linen fabrics and laundered before being offered for sale and except articles for the exclusive use of the persons living in such room or apartment, unless a license for the tenement house has been issued by the commissioner under section three hundred and twenty-four.

Note.— Takes the place of old § 100, sub. 1.

§ 313. Manufacturing of certain articles in tenements prohibited. No article of food, no dolls or dolls' clothing and no article of children's or infants' wearing apparel shall be manufactured for a factory, either directly or through one or more contractors or other third persons, in any apartment of a tenement house if any part of such apartment is used for living purposes.

Note.— Takes the place of old § 104.

§ 314. Work in cellars prohibited. No articles shall be manufactured in a cellar of a tenement house which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same, unless a certificate of exemption has been issued under chapter four hundred and sixty-three and chapter seven hundred and ninety-seven of the laws of nineteen hundred and thirteen.

Note.— Takes the place of the second sentence of old § 100, sub. 6.

§ 315. Prohibition of manufacturing by persons other than members of the family. No person shall manufacture any articles in any room or apartment of a licensed tenement house unless he is a member of a family living in such room or apartment and himself resides therein. This section does not apply to shops of dressmakers dealing solely in the customs trade direct to the consumer, if the whole number of persons living or working therein does not exceed one to each one thousand cubic feet of air space, if no children under fourteen years of age live or work therein and if a permit for the employment of such persons has been issued under section three hundred and twenty-five.

Note.— Takes the place of the last half of the fourth sentence of old § 100, sub. 6. Change in substance: The section does not apply to dressmakers' shops on any floor instead of only on the ground or second floor as in old law.

§ 316. Cleanliness and ventilation. Every licensed tenement house and all parts thereof shall be kept in a clean and sanitary condition and every room in which articles are manufactured shall be properly lighted and ventilated and shall contain at least five hundred cubic feet of air space for every person working therein. All articles manufactured therein shall be kept clean and free from vermin and all matter of an infectious or contagious nature.

Note.— Composed of the first sentence of old § 100, sub. 5, and the fourth sentence of § 100, sub. 6.

§ 317. Articles not to be manufactured in tenements in which there is disease. No articles shall be manufactured in any room or apartment of tenement house in which room or apartment there is or has been any infectious, contagious or communicable disease until such time as the local department or board of health certifies to the commissioner that such disease has terminated, and that the room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board.

Note.— Taken from old § 100, sub. 6.

§ 318. Articles unlawfully manufactured not to be sold. No person shall sell or expose for sale any articles manufactured in a tenement house contrary to the provisions of this chapter.

Note.— Takes the place of the first sentence of old § 102.

§ 319. Articles unlawfully manufactured to be labeled. If the commissioner finds any articles manufactured in a tenement house contrary to the provisions of this article or of section one hundred and sixty of this chapter, he shall affix to such articles a label containing the words "tenement made." If the label is affixed because of the existence of any disease in such tenement house, he shall immediately notify the local board of health which shall disinfect such articles and after disinfection remove the label. If the label is affixed for the violation of any provision other than that relating to disease, the commissioner may seize and destroy such articles unless the owner thereof shall remove the cause of the violation within thirty days after notice of such seizure is given by the commissioner.

Note.— Takes the place of old § 102, except the first sentence and of the first two sentences of old § 103.

§ 320. Register of persons to whom work is given: Identification label. Every employer conducting a factory from which articles or materials are given out to be manufactured in a tenement house shall keep a register of the names and addresses of the persons to whom such articles or materials are given and shall issue with all such articles or materials a label bearing the name and place of business of such factory written or printed in English. Such label shall be exhibited on the demand of the commissioner at any time while such articles or materials remain in the tenement house.

Note.— Takes the place of the first and last sentences of old § 101.

§ 321. Manufacturing in unclean tenements prohibited. Whenever the commissioner finds that any articles are manufactured in any room or apartment of a tenement house which is habitually kept in a filthy condition, he may affix to the entrance door of such apartment a notice calling attention to such facts and prohibiting the manufacture of any articles therein. No person, except an authorized representative of the department, shall remove or deface any such notice.

Note.— Takes the place of the last half of the last sentence of old § 100, sub. 5.

§ 322. Owners of tenement houses not to permit the unlawful use thereof. The owner or agent of a tenement house shall not permit the use thereof for the purpose of manufacturing any article therein contrary to the provisions of this article. If a room or apartment of a tenement house is so unlawfully used, the commissioner shall serve a notice thereof upon the owner or agent. Unless, within fifteen days after the service of the notice, such owner or agent causes such unlawful use to be discontinued or institutes and faithfully prosecutes proceedings for dispossession of the occupant who unlawfully uses such tenement house, he shall be deemed guilty of a violation of this article as if he, himself, were engaged in such unlawful use. Such unlawful use by the occupant of a tenement house shall be a cause for dispossession of such occupant, by summary proceedings to recover possession of real property as provided in the code of civil procedure.

Note.— Takes the place of old § 105. The ten-day period is merged with the fifteen-day period.

§ 323. Powers and duties of boards of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement house shall cause an inspection of such tenement house to be made within forty-eight hours. If any articles are found to be manufactured, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner. Such board may condemn and destroy all infected articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village

shall, when so requested by the commissioner, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner to carry out the provisions of this article.

Note.— Takes the place of old § 103 except the first two sentences.

§ 324. Issuance of tenement house licenses. 1. An application for a license to permit the use of a tenement house for manufacturing shall be made to the commissioner by the owner of the tenement house or his duly authorized agent. Such application shall be made upon blanks prepared and furnished by the commissioner and shall state the location of the house, the number of apartments in such house and the name and address of the owner.

2. Before issuing a license, the commissioner shall consult the records of the local health department or board and other appropriate local authority charged with the duty of sanitary inspection of such tenements. If such records show the presence of any infectious, contagious or communicable disease, or any unsanitary condition in such tenement house, the commissioner shall refuse to issue such license until such records show that the tenement house is free therefrom. Before issuing such license, the commissioner shall also inspect the tenement house sought to be licensed. If the commissioner finds that such tenement house conforms to all the requirements of this article and if the records of the local health department or board or other appropriate local authority show the existence of no infectious, contagious or communicable disease or unsanitary condition, he shall grant a license.

3. Such license may be revoked by the commissioner if, in his opinion, the provisions of this article or of section one hundred and sixty of this chapter have, since the issuance of the license, been or are being violated. Whenever a license is revoked or denied by the commissioner, the reasons therefor shall be stated in writing and filed in his office. Where a license is revoked, a new license must be obtained before such tenement house can again be used for the purposes for which a license is required.

Note.— Take the place of old § 100, subs. 2, 3 and 4.

§ 325. Dressmakers' permit. Before issuing a permit to a dressmaker as provided in section three hundred and fifteen the commissioner shall inspect the premises for which a permit is sought and if he finds that such place conforms to all the requirements

of this article, he shall issue a permit therefor. Such permit may be revoked by the commissioner if there exists any violation of the provisions of this article or of section one hundred and sixty of this chapter.

Note.— Provides for the issuance of a permit called for by the last half of the fourth sentence of old § 100, sub. 6.

§ *326. Permit to give out goods to a tenement house. No person shall hire, employ or contract with any person to manufacture any articles in any room or apartment of a tenement house which is not licensed as provided in this article. No articles or materials shall be given out to be manufactured in any tenement house for a factory unless the employer conducting such factory shall secure a permit therefor from the commissioner who shall issue such permit to any such person applying therefor. Such permit may be revoked or suspended by the commissioner whenever any provision of this article or of section seventy of this chapter is violated in connection with any work for such factory. Such permit may be reissued or reinstated in the discretion of the commissioner when such violation has ceased. No articles shall be manufactured in any tenement house for any factory for which no permit has been issued or for any factory whose permit is suspended or revoked.*

Note.— Takes the place of the second sentence of old § 101. See also old § 106.

[ARTICLE XII.

EMPLOYMENT OF WOMEN AND CHILDREN IN MERCANTILE ESTABLISHMENTS.

Section 160. Application of article.
161. Hours of labor of minors.
161-a. Hours of labor of messengers.
162. Employment of children.
163. Employment certificate; how issued.
164. Contents of certificate.
165. School record, what to contain.
166. Supervision over issuance of certificates.
167. Registry of children employed.
168. Washrooms and waterclosets.
169. Lunch rooms.
170. Seats for women in mercantile establishments.
171. Employment of women and children in basements.
172. Enforcement of article.
173. Laws to be posted.]

ARTICLE 13.

MERCANTILE ESTABLISHMENTS.

TITLE I. SANITATION.

Section 335. Cleanliness of rooms.
336. Cleanliness of buildings.
337. Drinking water.
338. Washrooms.
339. Dressing rooms.
340. Lunchrooms.
341. Water closets.
342. Ventilation.
343. Employment of children and females in basements.

TITLE II. FIRE HAZARD.

Section 350. Fire hazard.
351. Smoking prohibited.

TITLE III. GENERAL.

Section 360. Contribution to benefit or insurance fund.
361. Duties of owners and occupiers.

TITLE I. SANITATION.

§ [168] *335.* Cleanliness of rooms. Every room in a mercantile establishment [and] *including* the floor, walls, ceilings, windows and every other part thereof and all fixtures therein shall at all times be kept in a clean and sanitary condition. Floors shall, at all times, be maintained in a safe condition. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition.

§ [168-a] *336.* Cleanliness of buildings. Every part of a building in which a mercantile establishment is located and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept free from any accumulation of dirt, filth, rubbish or garbage. The roof, passages, stairs, halls, basements, cellars, privies, water closets, and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing, cesspools and drains thereof at all times kept in proper repair and in a sanitary condition.

§ [168-b.] *337.* Drinking water. *1.* In every mercantile establishment there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or from a spring or well or body of pure water. *2.* If such drinking water be placed in receptacles in the mercantile establishment, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals.

§ [168-c.] *338.* Washrooms and washing facilities. In every mercantile establishment there shall be provided and maintained for the use of employees adequate and convenient washrooms, or washing facilities. Such *washrooms and* washing facilities [shall consist of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water and] shall be separate for each sex wherever required by the rules of the industrial board. Every washroom shall be provided with adequate means of ventilation, [and] heating and *lighting* [artificial illumination].

§ [168-d.] *339.* Dressing rooms. In every mercantile establishment where more than five women are employed a sufficient number of dressing rooms conveniently located shall be provided for their use. Each dressing room shall be properly ventilated [by a window or by suitable ducts leading to the outer air] and shall be enclosed by partitions or walls. Each dressing room shall be means for hanging clothes and a suitable number of seats and provided with adequate means for artificial illumination, suitable shall be properly heated and ventilated. Each dressing room shall be separated from any water closet compartment by adequate partitions. Adequate floor space shall be provided in dressing rooms in proportion to the number of employees. [When more than ten women are employed such dressing room shall have a floor space of not less than sixty square feet and shall have at least one window opening to the outer air.]

§ [169] *340. Lunchrooms.* [Lunch-rooms. If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the

water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first or second class, in which case said permission may be so revoked by the commissioner of labor.] *No lunchroom in any mercantile establishment where females are employed shall be next to or adjoining the water closets, unless a permit therefor is granted by the commissioner. Such permit shall be granted if proper sanitary conditions exist, and it may be revoked at any time if the lunchroom is kept in such a manner or is so located as to be injurious to the health of the employees.*

§ [168-e] *341.* Water closets. 1. There shall be provided for every mercantile establishment a sufficient number of suitable and convenient water closets. All water closets shall be maintained inside the mercantile establishment except where, in the opinion of the commissioner, it is impracticable *or unnecessary* to do so.

2. There shall be separate water closet compartments or toilet rooms for females, *constructed and maintained in accordance with the rules of the industrial board* [to be used by them exclusively, and notice to that effect shall be clearly marked at the entrance of such compartments or rooms. The entrance to every water closet shall be effectively screened by a partition or vestibule. Where water closets for males and females are in adjoining compartments or toilet rooms, there shall be partitions of substantial construction between the compartments or rooms extending from the floor to the ceiling and such partitions shall be plastered or metal covered to a sufficient height. Whenever any water closet compartments open directly into the workroom, exposing the interior, they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited].

3. The use of any form of trough water closet, latrine or school sink within any mercantile establishment is prohibited except *as*

may be permitted by the industrial board in its rules [Such fixtures in existence on the first day of October, nineteen hundred and fourteen, having a common flushing system and approved by the industrial board in its rules]. All such trough water closets, latrines or school sinks shall, before the first day of October, nineteen hundred and fifteen, be completely removed and the place where they were located properly disinfected under the direction of the department.

4. Every water closet installed before October first, nineteen hundred and fourteen, inside any mercantile establishment shall have a basin of enameled iron or earthenware, and shall be *properly* flushed [from a separate water-supplied cistern or through a proper valve connected in such manner as to keep the water supply of the establishment free from contamination].

5. All woodwork enclosing water closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. All water closet compartments or toilet rooms constructed before October first, nineteen hundred and fourteen, shall have windows opening directly to the outer air or shall be otherwise properly ventilated to the outer air by suitable ducts, and shall be provided with means for artificial illumination.

6. All water closets, urinals, water closet compartments and toilet rooms hereafter installed in a mercantile establishment, including those provided to replace existing fixtures shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules as may be adopted by the industrial board.

7. All water closet compartments and toilet rooms, and the floors, walls, ceiling and surface thereof, and all fixtures therein, and all water closets and urinals shall at all times be maintained in a clean and sanitary condition. The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted [with a light colored paint]. The enclosure of each compartment and toilet room shall be kept free from obscene writing or marking. Where the water supply to water closets or urinals is liable to freeze, the water closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with wool felt or hair felt, or other adequate covering.

§ [168-f] *342.* Ventilation. Every mercantile establishment shall be provided with proper and sufficient means of ventilation by natural or mechanical means or both, as may be necessary and there shall be maintained therein proper and sufficient ventilation and proper degrees of temperature and humidity at all times during working hours. The industrial board shall make rules for and fix standards of ventilation, temperature and humidity in mercantile establishments.

§ [171] *343.* Employment of women and children in basements. [Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.] *Employment of children and females in basements. No child under the age of sixteen years nor any female shall be employed in the basement of a mercantile establishment unless a permit therefor is granted by the commissioner. Such permit shall be granted if the basement is sufficiently lighted and ventilated and is in a sanitary condition.*

TITLE II. FIRE HAZARD.

§ *350. Fire hazard. Every mercantile establishment and mercantile building shall be provided with adequate exit facilities and shall be so constructed, equipped, arranged and maintained as to afford safety to employees and patrons in case of fire. The industrial board shall in its rules prescribe detailed requirements for protection from the fire hazard in existing mercantile establishments and mercantile buildings and in those to be erected in the future.*

Note.— New section.

§ *351. Smoking prohibited. No person shall smoke in any mercantile establishment in which more than ten persons are employed except in a fireproof enclosed room set aside for that*

purpose but the industrial board in its rules may permit smoking in protected portions of a mercantile establishment, or in special classes of occupancies, where in its opinion the safety of employees and patrons would not be endangered thereby. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall, elevator car, stair-hall and room of a mercantile establishment in English and also in such other language as the fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor shall enforce this section. Such notices shall be furnished by the officer charged with the enforcement of this section and shall not be removed without his consent.

Note.— New section.

TITLE III. GENERAL.

§ [24.] *360.* Contributions to benefit or insurance fund. A corporation engaged in the business of operating a mercantile establishment shall not by deduction from salary, compensation or wages, by direct payment or otherwise, compel any employee in such mercantile establishment to contribute to a benefit or insurance fund maintained or managed for the employees of such establishment by such corporation, or by any other corporation or person; and every contract or agreement whereby such contribution is exacted shall be absolutely void. A corporation which will violate this section shall be liable to a penalty of one hundred dollars, recoverable by the person aggrieved in any court of competent jurisdiction. A director, officer or agent of a corporation who compels any employee to make a contribution in violation of this section, or sign any contract or agreement to make such contribution, or imposes or requires such a contribution as a condition of entering into or continuing in the employment of a mercantile establishment, shall be guilty of a misdemeanor.

§ *361. Duties of owners and occupiers. The occupant of a mercantile establishment shall be responsible for compliance with the provisions of this article within his holding. The owner of the building in which a mercantile establishment is located shall also be responsible for compliance with the provisions of sections three hundred and thirty-six, three hundred and thirty-seven subdivision one, three hundred and thirty-eight, three hundred and*

forty-one except subdivision seven, and all provisions relating to structural changes or permanent improvements in the building, or affecting portions of the building that are used in common or by more than one occupant.

NOTE.— New section.

[ARTICLE IX. MINES, TUNNELS AND QUARRIES AND THEIR INSPECTION.

Section 119. Protection of employees in mines, tunnels and quarries.
120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.
121. Outlets of mines.
122. Ventilation and timbering of mines and tunnels.
123. Riding on loaded cars; storage of inflammable supplies.
124. Inspection of steam boilers and apparatus; steam, air and water gauges.
125. Use of explosives; blasting.
126. Report of accidents.
127. Notice of dangerous condition.
128. Traveling ways.
129. Notice of opening new mine, shaft or quarry.
130. Notice of abandonment.
131. Employment of women and children.
132. Underground workings to be equipped with head house and doors.
133. Mines and tunnels to be equipped with wash-rooms.
134. Method of exploding blasts.
134-a. Hours of labor.
134-b. Medical attendance and regulations.
134-c. Penalties.
134-d. [Air pipes in tunnels and caissons.]
134-e. [Electric lights in tunnels and caissons.]
135. Enforcement of article.
136. Admission of inspectors to mines and tunnels.]

ARTICLE 14.

MINES, TUNNELS AND QUARRIES; EMPLOYMENT IN COMPRESSED AIR.

Note.— This article is revised from old article 9 of the labor law omitting provisions covered by the general provisions of this chapter.

TITLE I. MINES, TUNNELS AND QUARRIES.

Section 370. Notice of opening new mine, tunnel or quarry.
371. Notice of discontinuance or abandonment.
372. Outlets of mines.
373. Traveling ways in mines.
374. Head house and trap-doors.
375. Timbering of mines and tunnels.
376. Ventilation of mines and tunnels.
377. Boilers for mining and tunneling; inspection and equipment.
378. Safety of apparatus.
379. Riding on loaded cars, cages or buckets.
380. Use of explosives; blasting.
381. Storage of inflammable supplies.
382. Wash-rooms.
383. Responsibility for compliance.

TITLE II. EMPLOYMENT IN COMPRESSED AIR.

390. Definition.
391. Equipment.
392. Medical officers and nurses.
393. Physical examinations.
394. Record of physical examinations.
395. Employment of certain persons prohibited.
396. Hours of labor.
397. Rate and time of decompression.

TITLE I. MINES, TUNNELS AND QUARRIES.

§ [129] *370.* Notice of opening new mine, [shaft] *tunnel* or quarry. [Whenever a] *Every* [mine or quarry] operator *who is* [has] engaged or [is] about to engage in [the development of new industries by the sinking of] *opening* new shafts, inclines, tunnels or quarries, [he] shall report to the commissioner [of labor], giving the name of the owner [or owners,] and the location of the property, before the work of excavation [shall have] *has* reached the depth of twenty-five feet.

§ [130] *371.* Notice of *discontinuance or* abandonment. [It shall be the duty of e]*Every* [mine or quarry] operator [to notify the commissioner of labor of the] *who permanently* discontinu[ance]*es* or abandon[ment]*s* [of] any mine, *tunnel* or quarry

[, when and in the event that such mine or quarry shall be closed permanently or abandoned.] *shall notify the commissioner thereof immediately after such discontinuance or abandonment.*

§ [121] *372.* Outlets of mines. [If, in the opinion of the commissioner of labor, it is necessary for safety of employees, the] *Every* [owner, operator or superintendent of a] mine operating through either a vertical or inclined shaft, or a horizontal tunnel, shall [not employ any person therein unless there are in connection with the subterranean workings thereof], *if the commissioner finds it is necessary for the safety of the employees and issues an order to that effect, be provided with* not less than two openings or outlets, at least one hundred and fifty feet apart, and connected *with the subterranean workings and* with each other *and no person shall be employed in the mine until such openings or outlets have been provided.* [Such] *The* openings or outlets shall be so constructed as to provide *at all times* safe and [distinct means of ingress and egress from and to the surface, at all times, for the use of the employees of such mine.] *separate passageways between the subterranean workings and the surface.*

§ [128] *373.* Traveling ways *in mines.* In [all] *every* mine[s] there shall be cut out of or around the sides of every hoisting shaft, or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ [132] *374.* [Underground workings to be equipped with h]*H*ead house and *trap*doors. Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ *375. Timbering of mines and tunnels. Every mine and tunnel shall be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be employed in an unsafe place in a mine or tunnel except to make it safe.*

Note.— Taken from old § 122.

§ [122] *376.* Ventilation [and timbering] of mines and tunnels. In [each] *every* mine [or] *and* tunnel a ventilating current shall be conducted and circulated along the face of all working places and through the roadways *therein,* in sufficient [quantities] *volume* to insure the safety of employees and to remove smoke and noxious gases.

[Each owner, agent, manager or lessee of a mine or tunnel shall cause it to be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.]

Note.— Last paragraph of old § 122 made new § 375.

§ [124] *377.* [Inspection of steam boilers and apparatus; steam, air and water gauges.] *Boilers for mining and tunneling; inspection and equipment.* [All] *Every* boiler[s] used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall [have such boilers] *cause them to be* inspected *at least once in every six months* by a competent person[,] approved by the commissioner [of labor, once in six months], and shall file a certificate [showing the result thereof] in the mine or tunnel office and a duplicate [thereof] in the office of the commissioner [of labor] *showing the result of each such inspection.* [All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each] *Every* boiler or battery of boilers *so* used [in mining or tunneling for generating steam,] shall be provided with [a] proper safety valves *and with proper* steam and water gauges[, to show, respectively, the pressure of steam and the height of water in the boilers]. Every boiler house in which a boiler or [nest] *battery* of boilers is placed, shall be provided with a steam gauge properly connected with the boilers[, and

another]. *A* steam gauge shall be attached to the steam pipe in the engine house, and so placed that the engineer or fireman can readily ascertain the *steam* pressure [carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel].

Note.— The provision of old § 124 relating to safety of apparatus has been made new § 378.

§ *378. Safety of apparatus. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a competent person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including the weight of the rope itself. All cars and lifts shall be equipped with safety brakes.*

Note.— Taken from old § 124.

§ [123] *379.* Riding on loaded cars[;], *cages or buckets.* [storage of inflammable supplies.] No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or *into or out of a* tunnel in process of construction. [No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.]

Note.— Old § 123, second sentence made new § 381.

§ [125] *380.* Use of explosives; blasting. When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, [keeping,] moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules prescribed by the [commissioner of labor] *industrial board.* In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar

shall be used, unless the end thereof is tipped with at least six inches of copper or other soft material. No person shall be employed to blast, unless the [mine or tunnel] superintendent or person having charge of such mine, [or] tunnel *or quarry* is satisfied that [he] *such person* is qualified, by experience, to perform the work with ordinary safety. [When] *Before such* a blast is [about to be] fired [in a mine or tunnel,] *the person in charge of the work shall give* timely notice [thereof shall be given by the person in charge of the work,] to all persons who may be in danger therefrom. *No blast fired by electricity shall be exploded by an electric current of more than two hundred and fifty volts.*

Note.— Last sentence of old § 139 transferred to this section.

§ *381. Storage of inflammable supplies. No powder or oils of any description shall be stored in a mine, tunnel or quarry or in or around shafts, engine or boiler houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.*

Note.— Taken from old § 123, second sentence.

§ [133] *382.* [Mines and tunnels to be equipped with w]*W*ashrooms. Every mine, tunnel or quarry [employing over twenty-five men shall maintain a suitably equipped and heated washroom, which shall be at all times accessible to the men employed.] *where more than twenty-five persons are employed shall be provided with a washroom, properly heated and equipped, and accessible at all times to the employees.*

§ *383. Responsibility for compliance. Except as in this title otherwise provided the owner, agent, lessee, manager, operator and superintendent shall be responsible for the observance of the provisions of this title.*

Note.— Taken from old § 121.

TITLE II. EMPLOYMENT IN COMPRESSED AIR.

§ *390. Definition. The term "pressure," when used in this title, means gauge pressure in pounds per square inch.*

[§ 134-d. All work in the prosecution of which tunnels, caissons or other apparatus or means within which compressed air is employed shall have at least two air pipes or lines connected at all times and in perfect working condition.

§ 134-e. Wherever electricity is used as lighting apparatus the light supplied for the shaft leading to the caisson or tunnel or other apparatus wherein the men are actually at work shall be supplied from a different wire from the lights which are located at the point wherein the men are actually working under air.]

Note.— This title is made up of §§ 134-a, 134-b, 134-d, 134-e and last sentence of § 134.

§ 391. Equipment. Every employer carrying on any work in the prosecution of which persons are employed in compressed air shall

1. Provide and attach the necessary instruments to all caissons and air locks for showing the air pressure to which persons so employed therein are subjected, and employ a competent person to take charge of such instruments. Such person shall not be permitted to work more than eight hours in any twenty-four hours;

2. Provide and install properly equipped gauges in each tunnel for showing the air pressure to which the persons so employed therein are subjected. Such gauges shall be accessible, at all times during working hours, to all employees in the tunnel;

3. Connect at least two air pipes or lines to each compartment, caisson, tunnel or place where persons are so employed, and keep them so connected and in perfect working condition;

4. Provide a suitable ladder for the entire length of every shaft used in connection with such work;

5. Keep every passageway used in connection with such work clear and properly lighted;

6. Wherever electricity is used for lighting, provide a wire for lighting the shafts which wire shall be separate from the one used for lighting the place where the employees are at work in compressed air;

7. Wherever electricity is not used for lighting, provide suitable safeguards for all lights used in connection with such work;

8. Erect a shield in the working chamber of every caisson, in which persons are employed in compressed air, where the working chamber is less than ten feet in length and when the caisson is suspended or hung while work is in progress so that the bottom of the excavation is more than nine feet below the deck of the working chamber;

9. Provide, for the use of all persons so employed, dressing rooms which shall be kept open and accessible during working hours and during the intervals between working periods. The

dressing rooms shall be kept properly heated, lighted and ventilated, shall contain lockers and benches, baths with hot and cold water, and sanitary water-closets.

10. Wherever the maximum air pressure in such work exceeds seventeen pounds, provide and maintain a properly equipped medical lock. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment.

[§ 134-b. Medical attendance and regulations. Any person or corporation carrying on any tunnel, caisson or other work in the prosecution of which men are employed or permitted to work in compressed air, shall, while such men are so employed, also employ and keep in employment, one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all necessary times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for ten or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a day period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work in a place where the pressure is in excess of fifteen pounds unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work.

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him, which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air when the maximum pressure exceeds seventeen pounds as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of a certified trained nurse selected by the medical officer, who shall be qualified to render temporary relief.

(i) Whenever in the prosecution of caisson work in which compressed air is employed the working chamber is less than ten feet in length and when such caissons are at any time suspended or hung while work is in progress so that the bottom of the excavation is more than nine feet below the deck of the working chamber, a shield shall be erected in the working chamber for the protection of the workmen.

(j) Whenever in the prosecution of work in which compressed air is employed a shaft is used, all such shafts shall be provided with a safe, proper and suitable ladder for its entire length.

(k) Wherever in the prosecution of work in tunnels, caissons or other apparatus or means, in which compressed air is employed or used, lights other than electric lights are used, the said lights shall at all times be guarded.

(l) All passage ways in work, wherein compressed air is employed or used, shall be kept clear and properly lighted.]

Note.— Sub. 1 takes the place of a provision of old § 134-a; sub. 2 takes the place of a provision of old § 134; sub. 3 takes the place of a provision of § 134-d; sub. 4 takes the place of a provision of old § 134-b (k); sub. 5 takes the place of a provision of old § 134-b (m); sub. 6 takes the place of a provision of § 134-e; sub. 7 takes the place of a provision of old § 134-b (l); sub. 8 takes the place of a provision of old § 134-b (j); sub. 9 takes the place of a provision of old § 134-b (g); sub. 10 takes the place of the first two sentences of old § 134-b (h).

§ 392. Medical officers and nurses. Every employer carrying on any work in the prosecution of which persons are employed in compressed air shall:

1. Employ one or more licensed physicians as medical officers who shall be in attendance at all necessary times at the place where such work is in progress. The name and address of such physicians, while so employed shall be registered with the department of labor.

2. Wherever the maximum air pressure in such work exceeds seventeen pounds, employ one or more certified nurses who shall be selected by the medical officer and who shall have charge of the medical lock herein provided for.

Note.— Sub. 1 takes the place of the first part of § 134-b; sub. 2 takes the place of the last sentence of old § 134-b (h). Second sentence in sub. 1 of the new section is new matter.

§ 393. Physical examinations. 1. No person shall be employed in compressed air until he has been examined by the medical officer and found to be physically qualified therefor.

2. No person who has not previously worked in compressed air shall, during the first twenty-four hours of his employment, be permitted to work therein longer than one working period as provided in section three hundred and fifty-six, and he shall not be permitted to resume such work, if the air pressure exceeds fifteen pounds, until he has been re-examined by the medical officer and found to be physically qualified therefor.

3. No person, who is employed in compressed air but who has been absent therefrom for ten or more consecutive days for any cause, shall be permitted to resume such work until he has been re-examined by the medical officer and found to be physically qualified therefor.

4. No person who has been employed continuously in compressed air for three months shall be permitted to continue such work until he has been re-examined by the medical officer and found to be physically qualified therefor.

Note.— Sub. 1 takes the place of § 134-b (a); sub. 2 takes the place of old § 134-b (a); sub. 3 takes the place of old § 134-b (b); sub. 4 takes the place of old § 134-b (e).

§ 394. Record of physical examinations. The medical officer shall keep a record of all physical examinations made in accordance with section three hundred and ninety-three, which record

shall be kept at the place of employment and shall contain the name, age, address and full description of each person examined, the date on which each examination was made, and the physical condition, on that date, of the person examined and the total time such person has worked in compressed air including time in previous employments.

Note.— Taken from old § 134-b (f).

§ *395. Employment of certain persons prohibited. No person known to be addicted to the excessive use of intoxicants shall be employed in compressed air.*

Note.— Takes the place of old § 134-b (c).

[§ 134-a. Hours of labor. All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed or used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall not exceed twenty-one pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall equal twenty-two pounds to the square inch and does not exceed thirty pounds to the square inch, no employee shall be permitted to work or remain more than six hours in any twenty-four hours, such six hours to be divided into two periods of three hours each with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall exceed thirty pounds to the square inch, and shall not equal thirty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than four hours, such four hours to be divided into two periods of two hours each, with an interval of at least two hours between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-five pounds to the square inch and shall not exceed forty pounds to the square inch, no such employee shall be permitted to work or remain therein more than three hours in any

twenty-four hours, such three hours to be divided into periods of not more than one and one-half hours each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty pounds to the square inch and shall not equal forty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of not more than one hour each, with an interval of at least four hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-five pounds to the square inch and shall not exceed fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than ninety minutes in any twenty-four hours, and such ninety minutes to be divided into periods of forty-five minutes each, with an interval of not less than five hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the place in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be, where the work is being done in tunnels, at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute; and which said decompression shall be, where the work is being done in caissons, at the following rates:

Where pressure is not over ten pounds per square inch the time of decompression shall be one minute; when pressure is over ten pounds per square inch, but does not exceed fifteen pounds per square inch, the time of decompression shall be two minutes; when pressure is over fifteen pounds per square inch, but does not exceed twenty pounds per square inch, the time of the decompression shall be five minutes; when pressure is over twenty pounds per square inch, but does not exceed twenty-five pounds per square inch, the time of decompression shall be ten minutes; when pressure is over twenty-five pounds per square inch but does not exceed thirty pounds per square inch, the time of decompression shall be twelve minutes; when pressure is over thirty pounds

per square inch, but does not exceed thirty-six pounds per square inch, the time of decompression shall be fifteen minutes; when pressure is over thirty-six pounds per square inch, but does not exceed forty pounds per square inch, the time of decompression shall be twenty minutes; when pressure is over forty pounds per square inch, but does not exceed fifty pounds per square inch, the time of decompression shall be twenty-five minutes.

All necessary instruments shall be attached to all caissons and air locks showing the actual air pressure to which men employed therein are subjected and which instruments shall be accessible to and in charge of a competent person who shall not be employed more than eight hours in any twenty-four hours.]

§ 396. Hours of labor. When the air pressure in any tunnel, caisson, compartment or place in which persons are employed exceeds normal but does not exceed fifty pounds, the maximum number of hours which, in every twenty-four hours, a person may be employed or permitted to remain therein and the minimum time interval which shall elapse between the working periods shall be as hereafter stated. In every case the maximum number of hours shall be divided into two working periods of equal length.

Exceeds normal but does not exceed 21 pounds	*8*	*30 mins.*
Exceeds 21 but does not exceed 30 pounds....	*6*	*1 hr.*
Exceeds 30 but does not exceed 35 pounds....	*4*	*2 hrs.*
Exceeds 35 but does not exceed 40 pounds....	*3*	*3 hrs.*
Exceeds 40 but does not exceed 45 pounds....	*2*	*4 hrs.*
Exceeds 45 but does not exceed 50 pounds....	*1½*	*5 hrs.*

Except in cases of emergency, no person shall be employed or permitted to remain in any tunnel, caisson, compartment or place where the air pressure exceeds fifty pounds.

Note.— Rewritten from a portion of old § 134-a.

§ 397. Rate and time of decompression. No person shall be permitted to pass from any tunnel, caisson, compartment or place where he has been employed in compressed air to normal pressure without passing through an intermediate lock or stage of decompression. When the employees are passing from a tunnel to normal pressure, the rate of decompression shall be three pounds

every two minutes except when the air pressure in such tunnel exceeds thirty-six pounds in which case the rate of decompression shall be one pound every minute. When the employees are passing from a caisson, compartment, or place to normal pressure, the time of decompression shall be as follows:

When the pressure in a caisson, compartment or place:	Time of decompression
Excceds normal but does not exceed 10 pounds....	*1 min.*
Exceeds 10 but does not exceed 15 pounds.....	*2 mins.*
Exceeds 15 but does not exceed 20 pounds.....	*5 mins.*
Exceeds 20 but does not exceed 25 pounds.....	*10 mins.*
Exceeds 25 but does not exceed 30 pounds.....	*12 mins.*
Exceeds 30 but does not exceed 36 pounds.....	*15 mins.*
Exceeds 36 but does not exceed 40 pounds.....	*20 mins.*
Exceeds 40 but does not exceed 50 pounds.....	*25 mins.*

Note.— Rewritten from a portion of old § 134-a.

ARTICLE 15.

VIOLATIONS AND PENALTIES.

Section 405. Civil penalties for violations.
406. Summary action to prevent violations.

§ 405. Civil penalties for violations. 1. Any person who violates or does not comply with any provision of this chapter, any provision of rules made under authority granted in this chapter, or any lawful order of the commissioner, and any person who knowingly makes or permits to be made a false statement or entry in or in relation to any affidavit, certificate, transcript, time-book, register, record, report, documentary evidence or other papers required to be made or kept under any provision of this chapter, is liable to a civil penalty of not exceeding fifty dollars for each such violation. Any person who having been served by the commissioner with an order to comply with any provision of this chapter or of rules made thereunder fails to comply with such order within the time specified therein, or, if no time be specified, within five days after such service, shall be liable to a civil penalty of not to exceed two hundred and fifty dollars.

2. The liability to the penalties provided by this section shall be in addition to liability to prosecution for a misdemeanor.

3. The commissioner in his name of office may bring an action for the recovery of any penalty under this section.

Note.— New. Covers various provisions of existing law.

§ *406. Summary action to prevent violations. 1. The commissioner may require any building, structure, enclosure or place of employment to be vacated if in his opinion it is, because of a violation of any provision of this chapter or of any rules made thereunder, so unsafe or unsanitary as to endanger life or health.*

2. In case any lawful order issued by the commissioner is not complied with, or the commissioner certifies in writing that an emergency exists requiring such action, he may issue an order as provided in subdivision one of this section. Such order shall be addressed and served as provided in section forty-six. Whenever any order to vacate served as aforesaid shall not have been complied with, within the time designated therein, the commissioner may apply to any judge of the supreme court, who, upon such notice as he may fix, may grant an order directing the commissioner to vacate such building or premises, or so much thereof as said commissioner may deem necessary, and prohibiting and enjoining all persons from using or occupying the same for any purpose until such measures are taken as may be required by such order.

Note.— New.

ARTICLE XVI.

LAWS REPEALED; WHEN TO TAKE EFFECT.

Section [240]*375.* Laws repealed.
[241]*376.* When to take effect.

§ [240] *410.* Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ [241] *411.* When to take effect. This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	641.....	All
1867.....	856.....	All
1867.....	969.....	All

Laws of	Chapter	Section
1868.....	717.....	2, part suspending operation of L. 1867, Ch. 969, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 969
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added by L. 1887, Ch. 462, § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All
1892.....	667.....	All
1892.....	673.....	All
1892.....	711.....	All
1893.....	173.....	All
1893.....	219.....	All
1893.....	339.....	All
1893.....	691.....	All
1893.....	715.....	All

Laws of	Chapter	Section
1893.....	717.....	All
1894.....	277.....	All
1894.....	373.....	All
1894.....	622.....	All
1894.....	698.....	All
1894.....	699.....	All
1895.....	324.....	All
1895.....	413.....	All
1895.....	518.....	All
1895.....	670.....	All
1895.....	765.....	All
1895.....	791.....	All
1895.....	899.....	All
1896.....	271.....	All
1896.....	384.....	All
1896.....	672.....	All
1896.....	789.....	All
1896.....	931.....	1–4, 6, 7
1896.....	936.....	All
1896.....	982.....	All
1896.....	991.....	All
1897.....	148.....	All
1897.....	415.....	All
1899.....	191.....	All
1899.....	192.....	All
1899.....	375.....	All
1899.....	558.....	All
1899.....	567.....	All
1900.....	298.....	All
1900.....	533.....	All
1901.....	9.....	All
1901.....	306.....	All
1901.....	475.....	All
1901.....	477.....	All
1901.....	478.....	All
1902.....	88.....	All
1902.....	454.....	All
1902.....	600.....	All
1903.....	151.....	All
1903.....	184.....	All
1903.....	255.....	All

Laws of	Chapter	Section
1903	561	All
1904	291	All
1904	523	All
1904	550	All
1905	493	All
1905	518	All
1905	519	All
1905	520	All
1906	129	All
1906	158	All
1906	178	All
1906	216	All
1906	275	All
1906	316	All
1906	366	All
1906	375	All
1906	401	All
1906	490	All
1906	506	All
1907	83	All
1907	243	All
1907	286	All
1907	291	All
1907	399	All
1907	418	All
1907	485	All
1907	490	All
1907	505	All
1907	507	All
1907	588	All
1907	627	All
1908	89	All
1908	174	All
1908	426	All
1908	442	All
1908	443	All
1908	520	All

§ 2. Articles seven, thirteen, fourteen and fifteen of said chapter are hereby repealed and sections nine, twelve, eighteen, nineteen, twenty, twenty-a, twenty-one, twenty-two (entitled "duties

relating to apprentices"), seventy-three, eighty-seven, ninety, one hundred and twenty-six, one hundred and thirty-four, one hundred and thirty-four-c, one hundred and thirty-five, one hundred and thirty-six, one hundred and fifty-five, one hundred and sixty, one hundred and sixty-one-b, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-seven, one hundred and seventy, one hundred and seventy-two and one hundred and seventy-three of said chapter and all other sections thereof not amended by or included in section one of this act, are hereby repealed.

§ 3. Section ninety-four of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended dred and ten, is hereby further amended by adding thereto a new by chapter one hundred and forty of the laws of nineteen hunsubdivision after subdivision eight to be subdivision eight-a thereof and to read as follows:

8-a. The commissioner shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the state of all alien children of school age and such other facts as will tend to identify them, and shall deliver copies of such lists to the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

Note.— Taken from old section 153, subdivision 2, of the Labor Law, without change of substance, except that the duty is transferred from the commissioner of labor to the commissioner of education.

§ 4. Chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby further amended by adding thereto a new article after article twenty-two, to be article twenty-two-a thereof, to read as follows:

ARTICLE 22-A.

EMPLOYMENT OF CHILDREN IN STREET TRADES.

Section 610. Prohibited employment of children in street trades.
611. Permit and badge for children engaged in street trades, how issued.
612. Contents of permit and badge.
613. Regulations concerning badge and permit.
614. Limit of hours.
615. Employment of children in carrying and distributing newspapers.
616. Enforcement of article.
617. Violation of this article, how punished.
618. Punishment of parent, guardian or other person contributing to the delinquency of children.

§ 610. Prohibited employment of children in street trades. No male child under twelve, and no girl under sixteen years of age, shall in any city of the first, second or third class sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place.

§ 611. Permit and badge for children engaged in street trades, how issued. No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of twelve years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a

permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

§ 612. Contents of permit and badge. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height, weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

§ 613. Regulations concerning badge and permit. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first, second or third class as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer.

§ 614. Limit of hours. No child to whom a permit and badge are issued as provided for in the preceding section shall sell or expose or offer for sale any newspapers, magazines or periodicals after eight o'clock in the evening, or before six o'clock in the morning.

§ 615. Employment of children in carrying and distributing newspapers. Upon obtaining a permit and badge as provided by this section, a male child over twelve years of age between the close of school and six-thirty o'clock in the afternoon and a male child over fourteen years of age between five-thirty and eight o'clock in the morning may be employed to carry and distribute newspapers on a newspaper route in a city or village, if no other work or employment be required or permitted to be done by any such child during that time. The badge or permit required by this section shall be issued to such child by the district superintendent or the board of education of the city or village and school district where such child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case such child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age prescribed by this section, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that such principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by this section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding with the number of the permit, and the

name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city or village in distributing newspapers without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police or attendance officer.

§ 616. Enforcement of article. In cities of the first, second or third class, police officers, and the regular attendance officers appointed by the board of education, who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article.

§ 617. Violation of this article, how punished. Any child who shall, in any city of the first, second or third class, sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article may be deemed and adjudged in need of the care and protection of the state, and if over seven years of age may be adjudged guilty of juvenile delinquency. A child violating the provisions of this act may be arrested and in the city of New York be brought before a children's court and in any other city be brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law. If any such child is committed to an institution, it shall, when practicable, be committed to an institution governed by the same religious faith as the parents of such child. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such

demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section.

§ 618. Punishment of parent, guardian or other person for contributing to the delinquency of children. The parent, guardian or other person having the custody of a child, who omits to exercise reasonable diligence to prevent such child from violating the provisions of this act, shall be guilty of a misdemeanor and shall be dealt with as provided by section four hundred and ninety-four of the penal law. In any such proceedings against any such parent, guardian or other person having custody of such child, proof of the presence of such child in the public streets engaged in the sale or exposure or offering for sale of newspapers, magazines or periodicals in violation of the provisions of this article, shall be deemed prima facie proof of the lack of reasonable diligence in the control of such child by such parent, guardian or custodian, to prevent such offense by such child.

Note.—All of the foregoing sections, except § 615, taken without change of substance from Article XV of the Labor Law; § 615 taken without change from old § 161-b of the Labor Law.

§ 5. Chapter twenty-eight of the laws of nineteen hundred and nine, entitled "An act relating to corporations generally, constituting chapter twenty-three of the consolidated laws," is hereby amended by adding thereto a new section, to be section two hundred and sixty-one-a thereof, and to read as follows:

§ 261-a. Payment of wages by receivers. Upon the appointment of a receiver of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such corporation shall be preferred to every other debt or claim. The provisions of section two hundred and thirty of this chapter do not apply to the provisions of this section.

Note.—Taken without change of substance from § 9 of the Labor Law.

§ 6. Chapter forty-four of the laws of nineteen hundred and nine, entitled "An act in relation to partnership, constituting chapter thirty-nine of the consolidated laws," is hereby amended by

adding thereto a new section, to be section eight thereof, and to read as follows:

§ 8. *Payment of wages by receivers. Upon the appointment of a receiver of a partnership the wages of the employees of such partnership shall be preferred to every other debt or claim.*

Note.— Taken without change of substance from § 9 of the Labor Law.

§ 7. Section twelve hundred and seventy-five of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act to provide for the punishment of crime, constituting chapter forty of the consolidated laws," as amended by chapter seven hundred and forty-nine of the laws of nineteen hundred and eleven, chapter three hundred and eighty-three of the laws of nineteen hundred and twelve and chapter three hundred and forty-nine of the laws of nineteen hundred and thirteen, is hereby further amended to read as follows:

§ 1275. Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor. Any person who violates or does not comply with any provision of the labor law, any provision of the industrial code, any rule or regulation of the industrial board of the department of labor, or any lawful order of the commissioner of labor; and any person who knowingly makes *or permits to be made* a false statement *or entry* in or in relation to [any application made for an employment certificate as to any matter required by articles six and eleven of the labor law to appear in any affidavit, record, transcript or certificate therein provided for,] *any affidavit, certificate, transcript, time-book, register, record, report, documentary evidence or other papers required to be made or kept under any provision of the labor law* is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter otherwise provided, for a first offense by a fine of not less than twenty nor more than fifty dollars *or by imprisonment for not more than ten days or by both such fine and imprisonment*; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third *or subsequent* offense by a fine of not less than two hundred and fifty dollars *nor more than five thousand dollars,* or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

§ 8. Sections six hundred and twenty, twelve hundred and seventy, twelve hundred and seventy-one, twelve hundred and seventy-two, twelve hundred and seventy-four, twelve hundred and seventy-six and twelve hundred and seventy-seven of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act to provide for the punishment of crime, constituting chapter forty of the consolidated laws," as amended, are hereby repealed.

§ 9. There is hereby enacted a new chapter of the consolidated laws to be chapter sixty-eight thereof, and inserted after chapter sixty-seven and to read as follows:

CHAPTER LXVIII OF THE CONSOLIDATED LAWS.

EMPLOYERS' LIABILITY.

Article 1. Short title. (§ *1.*)
2. Employers' liability. (§§ *2–15.*)
3. Laws repealed; construction; when to take effect. (§§ *16–18.*)

ARTICLE 1.

SHORT TITLE.

Section 1. Short title.

Section 1. Short title. This chapter shall be known as the "employers' liability law."

ARTICLE 2.

EMPLOYERS' LIABILITY.

Section 2. Employer's liability for injuries.
3. Notice to be served.
4. Assumption of risks; contributory negligence, when a question of fact.
5. Trial; burden of proof.
6. Defense; insurance fund.
7. Existing rights of action continued.
8. Consent by employer and employee to compensation plan.
9. Liability to pay compensation; notice of accident.
10. Amount of compensation; persons entitled; physical examination.
11. Settlement of disputes.

12. Preferential claim; not assignable or subject to attachment; attorney's fee.
13. Cancellation of consent.
14. Reports of compensation plan.
15. Reports by employer.

§ 2. Employer's liability for injuries. When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition;

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor or administrator of a deceased employee, suing under the provisions of this article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer,

or of some person intrusted by him with the duty of seeing that they were in proper condition.

§ 3. Notice to be served. No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary

course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation.

§ 4. Assumption of risks; contributory negligence, when a question of fact. An employee by entering upon or continuing in the service of the employer shall be presumed to have assented to the necessary risks of the occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after the first day of September, nineteen hundred and ten, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after the first day of September, nineteen hundred and ten, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection.

§ 5. Trial; burden of proof. On the trial of any action brought by an employee or his personal representative to recover damages

for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant.

§ 6. Defense; insurance fund. An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

§ 7. Existing rights of action continued. Every right of action existing on the seventeenth day of February, nineteen hundred and nine, for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for in section three of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 8. Consent by employer and employee to compensation plan. When and if any employer in this state and any of his employees shall consent to the compensation plan described in sections nine to fifteen, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so

consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section nine hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections nine to fifteen, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver.

§ 9. Liability to pay compensation; notice of accident. If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section ten of this article: provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after

such death or removal of such physical or mental incapacity, or in event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by said want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.

§ 10. Amount of compensation; persons entitled; physical examination. The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at

work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian.

§ 11. Settlement of disputes. Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations

to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct.

§ 12. Preferential claim; not assignable or subject to attachment; attorney's fees. Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial.

§ 13. Cancellation of consent. When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office

address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto.

§ *14. Reports of compensation plan. Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer.*

§ *15. Reports by employer. Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits.*

ARTICLE 3.

LAWS REPEALED; CONSTRUCTION; WHEN TO TAKE EFFECT.

Section 16. Laws repealed.
17. Construction.
18. When to take effect.

§ *16. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.*

§ *17. Construction. The provisions of this chapter shall be construed as a continuation of the provisions of sections two*

hundred to two hundred and four of chapter thirty-six of the laws of nineteen hundred and nine, as amended by chapter three hundred and fifty-two of the laws of nineteen hundred and ten, and not as a new enactment.

§ *18. This act shall take effect immediately.*

SCHEDULE OF LAWS REPEALED.

Laws of	*Chapter*	*Section*
1909	*36*	*200–204*
1910	*352*	*All*

Note.— Taken without change from old Article XIV of the Labor Law.

§ 10. This act shall take effect immediately.

2

WAGE COMMISSION

AN ACT

To protect the health, morals and welfare of women and minors employed in industry by establishing a wage commission and providing for the determination of living wages for women and minors.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. State wage commission. A state wage commission, hereinafter referred to as the commission, is hereby created, consisting of three commissioners, to be appointed by the governor, by and with the advice and consent of the senate, one of whom shall be designated by the governor as chairman. The commissioner of labor shall also be an ex-officio member of the commission but shall not have a vote on orders, decisions or determinations. The term of office of appointive members of the commission shall be for three years, except that the first members thereof shall be appointed for such terms that the term of one member shall expire on January first, nineteen hundred and seventeen and on January first of every succeeding year. Successors shall be appointed in like manner for a full term of three years. Vacancies shall be filled in like manner by appointment for the unexpired time. The commission shall have an official seal which shall be judicially noticed. The commission shall publish an official bulletin from time to time and shall make an annual report to the legislature of its investigations and proceedings on or about the first day of February.

§ 2. Secretary and other employees. The commission may appoint and remove a secretary and such other employees as may

be needed to carry out the provisions of this chapter. The authority, duties and compensation of all subordinates and employees within the amount appropriated therefor shall be fixed by the commission.

§ 3. Salaries and expenses. Each commissioner shall be paid ten dollars for each day's service. The commissioners and their subordinates shall be entitled to their actual and necessary expenses while traveling on the business of the commission. The salaries and compensation of the subordinates and all other expenses of the commission within the amount appropriated therefor shall be paid out of the state treasury upon vouchers signed by the chairman.

§ 4. Sessions of commission. The commission shall hold stated meetings at least once a month during the year and shall hold other meetings at such times and places as the needs of the public service may require, which meetings shall be called by the chairman or by any two members of the commission. All meetings of the commission shall be open to the public. The commission shall keep minutes of its proceedings, showing the vote of each commissioner upon every question and records of its examinations and other official action.

§ 5. Powers of individual commissioner. Any investigation, inquiry or hearing which the commission is authorized to hold or undertake, may be held or taken by or before any commissioner or the secretary, and the decision, determination or order of a commissioner or the secretary, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the decision, determination or order of the commission. Each commissioner and the secretary shall, for the purposes of this chapter, have power to administer oaths, certify to official acts, take affidavits and depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records and documents before the commission or before any wage board created pursuant to this chapter.

§ 6. Rules. The commission shall adopt reasonable rules regulating and providing for the method of making investigations; the conduct of hearings, investigations and inquiries; the organization and procedure of wage boards created pursuant to this chapter; and otherwise for carrying into effect the provisions of this chapter.

§ 7. Technical rules of evidence or procedure not required. The commission or a commissioner or secretary or a wage board in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.

§ 8. Issuance of subpoena; penalty for failure to obey. A subpoena shall be signed and issued by a commissioner or by the secretary of the commission and may be served by any person of full age in the same manner as a subpoena issued out of a court of record. If a person fails, without reasonable cause, to attend in obedience to a subpoena, or to be sworn or examined or answer a question or produce a book or paper, or to subscribe and swear to his deposition after it has been correctly reduced in writing, he shall be guilty of a misdemeanor.

§ 9. Recalcitrant witnesses punishable as for contempt. If a person in attendance before the commission or a commissioner or the secretary, or before any wage board, refuses, without reasonable cause, to be examined, or to answer a legal and pertinent question or to produce a book or paper, when ordered so to do by the commission or a commissioner or the secretary, the commission may apply to a justice of the supreme court upon proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail. Upon the return of such order the justice shall examine under oath such person and give him an opportunity to be heard; and if the justice determines that he has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

§ 10. Fees and mileage of witnesses. Each witness who appears in obedience to a subpoena before the commission or a commissioner or the secretary, or before a wage board or person employed by the commission to obtain the required information, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme court, which shall be audited

and paid from the state treasury in the same manner as other expenses of the commission. A witness subpoenaed at the instance of a party other than the commission, a commissioner, the secretary, or wage board or person acting under the authority of the commission, shall be entitled to fees or compensation from the state treasury, if the commission certify that his testimony was material to the matter investigated, but not otherwise.

§ 11. Depositions. The commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court.

§ 12. Labor department to furnish statistics. Upon request of the commission, the commissioner of labor shall cause the bureau of statistics and information or other bureaus of the department of labor to gather such statistics and information as the commission may require.

§ 13. Register of women and minors. Every employer of women and minors shall keep a register of the names and addresses of and the wages paid to all women and minors employed by him, the occupation of each and the number of hours that they are employed by the day or by the week, and their actual working hours for such periods, and every such employer shall on request, permit the commission or any of its members or its secretary or agents to inspect such register. Every such employer shall also furnish in writing to the commission any information concerning the foregoing matters that the commission may require.

§ 14. Living wage. The terms "living wage" or "living wages" shall mean wages sufficient to supply the necessary cost of living and to maintain the worker in health, and where the words "minimum wage" or "minimum wages" are used in this act they shall be deemed to have the same meaning as "living wage" or "living wages."

§ 15. Investigation of wages paid to women and minors. The commission shall have power to investigate wages and working conditions in any occupation in the state in order to determine whether living wages are paid to women and minors employed

therein. Such investigation shall also be made at the request of not less than one hundred persons engaged in any occupation in which any women or minors are employed. The names of the persons making such request shall not be made public.

§ 16. Creation of wage board. If after such investigation the commission has reason to believe that a substantial number of women and minors employed in the occupation investigated receive less than living wages, the commission shall establish a wage board consisting of an equal number of representatives of employers in the occupation in question and of persons to represent such employees in said occupation and of one or more disinterested persons appointed by the commission to represent the public. So far as practicable the selection of members representing employers and employees shall be through election by employers and employees affected respectively. The commission shall designate the chairman from among the representatives of the public and shall exercise exclusive jurisdiction over all questions arising with reference to the validity of the procedure and of the determination of the board. The members of wage boards shall be compensated at the same rate as jurors in civil cases in the supreme court in the county of New York and shall be allowed the necessary traveling and clerical expenses incurred in the performance of their duties, which shall be paid as are the expenses of the commission.

§ 17. Determinations of wage boards. Each wage board shall have access to all of the statistics and information gathered by the commission with reference to wages and conditions in any occupation under investigation and any other data pertinent thereto. Each wage board shall, after a careful investigation and after such public hearings as it finds necessary, endeavor to determine the amount of the living wage, whether by time rate or piece rate, suitable for a female employee of ordinary ability in such occupation or any or all of the branches thereof, and also suitable minimum wages for learners and apprentices and for minors below the age of eighteen years. In determining such living wage the board may take into consideration the financial condition of the industry and distribute any advance in wages that may be found necessary, to take effect at specified intervals. If the majority of the members of the wage board agree upon such wage determinations, they shall report such determinations to the commission together with a statement of the reasons therefor and facts relating thereto.

§ 18. Action of commission. If the commission deems proper, it may, after it receives the report of a wage board, recommit the subject or any part thereof to the same or to a new wage board. If the report of a wage board is accepted by the commission, a summary of its findings and determinations shall be published in the bulletin of the commission and in such other manner as the commission may deem advisable. Copies of the full report of the wage board together with the testimony taken before it, shall be kept on file at the office of the commission and open to public inspection. The commission shall hold a public hearing on the report of the wage board, notice of which shall be published in such newspapers as the board may prescribe, at least once, not less than thirty days prior thereto, and given by mail to all parties in interest who have filed requests therefor, with the commission. The commission, upon consideration of the report and findings of the wage board and the testimony taken at the public hearing, shall then determine the amount of the living wage by time rate or piece rate, suitable for a female employee of ordinary ability in the occupation investigated, or any or all of the branches thereof, and also suitable minimum wages for learners and apprentices and for minors below the age of eighteen years. The commission shall fix a time when its determination of such living wage shall take effect which shall be not less than thirty days from the date of entry of such determination. In determining such living wage the commission may take into consideration the financial condition of the industry and distribute any advance in wage that may be found necessary to take effect at specific intervals. A summary of the findings of the commission and its determinations and recommendations shall be published in the bulletin of the commission and in such newspapers as the commission may prescribe and in such other manner as the commission may deem advisable. A summary of such findings, determinations and recommendations shall be mailed to all persons who have filed requests therefor with the commission. If the wage board fails to submit a report within a reasonable time fixed by the commission, the subject may be referred to a new wage board or the commission itself, after notice that the board has failed to make any determinations or recommendations, may proceed to hold a public hearing and determine the amount of the living wage in the manner hereinbefore provided.

§. 19. Licenses to physical defectives. In any occupation or branch thereof in which a minimum time rate of wages only, has

been fixed, the commission may issue to a woman physically defective a special license authorizing her employment for a wage less than the legal minimum wage, provided that the number of such licensees shall not exceed one-tenth of the entire number of women and minor workers in any establishment.

§ 20. Reconsideration of wage determinations. Whenever a minimum wage rate has been established in any occupation, the commission may, upon petition of either employers or employees, reconvene the wage board or establish a new wage board and any recommendation made by such board or action thereby shall be dealt with in the same manner as the recommendation or act of a wage board, under sections seventeen and eighteen hereof.

§ 21. Minors. The commission may inquire into wages paid to minors in any occupation in which the majority of employees are minors and may, after giving public hearings, determine the minimum wage suitable for such minors. When the commission has made such a determination it shall proceed in the same manner as if the determination had been recommended to the commission by a wage board.

§ 22. Publication for failure to comply with determinations. The commission shall from time to time make inquiry to determine whether employers in each occupation investigated are obeying its orders and determinations and shall publish in such newspapers as it may designate, the names of those employers who fail to comply therewith. The type in which the employers' names shall be printed shall not be smaller than that in which the news matter of the paper is printed. Such publication may also be made in any other manner that the commission may determine to be necessary or proper.

§ 23. Newspapers to publish. Any newspaper neglecting to publish the findings, orders, determinations, recommendations or notices of the commission at its regular rates for the space taken shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars for each offense.

§ 24. No liability for publication. No member of the commission and no newspaper publisher, proprietor, editor or em-

ployee thereof, and no other person shall be liable to an action for damages for publishing the name of any employer in accordance with the provisions of this act, unless such publication contains some wilful misrepresentation.

§ 25. Improper discharge of employees. Any employer who discharges or in any other manner discriminates against any employee because such employee has testified or is about to testify, or has served or is about to serve upon a wage board, or is or has been active in the formation thereof, or has given or is about to give information concerning the conditions of such employee's employment, or because the employer believes that the employee may testify or may serve upon a wage board, or may give information concerning the conditions of the employee's employment in any investigation or proceeding relative to the enforcement of this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than two hundred dollars and not more than one thousand dollars for each offense.

§ 26. This act shall take effect October first, nineteen hundred and fifteen.

3. CONSOLIDATION OF DEPARTMENTS INSPECTING BUILDINGS IN NEW YORK CITY

AN ACT to enable the board of estimate and apportionment of the city of New York to consolidate, readjust, reorganize and reconstitute the various departments, boards and bureaus of such city and the several boroughs thereof in so far as their jurisdiction relates to the inspection, construction, alteration, conversion, equipment, occupancy or use of buildings and structures in such city.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized and empowered to consolidate, readjust, reorganize and reconstitute, in whole or in part, any or all of the various departments, boards and bureaus of such city and the several boroughs thereof in so far as their jurisdiction relates to the inspection, construction, alteration, conversion, equipment, occupancy or use of buildings and structures in such city. Such consolidation, readjustment, reorganization or reconstitution to take effect before the first day of January, nineteen hundred and sixteen. The said board of estimate and apportionment is hereby granted such rights, powers and jurisdiction as may be necessary to effectuate the purposes of this act.

§ 2. No provision of any statute or ordinance shall operate so as to defeat or limit the rights, powers or jurisdiction conferred by this act.

§ 3. The provisions of this act shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been enacted.

§ 4. This act shall take effect immediately.

APPENDIX II

BRIEFS SUBMITTED IN CASES INVOLVING CONSTITUTIONALITY OF LAWS RECOMMENDED BY COMMISSION

1. People v. Schweinler Press — Court of Appeals — Law prohibiting night work of women in factories.

2. Decision of Court of Appeals in People v. Schweinler Press, sustaining the constitutionality of law prohibiting night work of women in factories.

3. People v. Balofsky —Appellate Division, Second Department — Law prohibiting manufacturing in tenements of children's wearing apparel.

1. BRIEF ON CONSTITUTIONALITY OF LAW PROHIBITING NIGHT WORK OF WOMEN IN FACTORIES

COURT OF APPEALS,

STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK,
Respondents,
against
A Certain Corporation called CHARLES SCHWEINLER PRESS,
Appellant.

Brief Submitted on Behalf of the New York State Factory Investigating Commission as Amicus Curiae

STATEMENT

The appellant was convicted in the Court of Special Sessions of the city of New York, on April 27, 1914, for a violation of section 93-b of the State Labor Law, which prohibits the employment of women at labor in factories before six o'clock in the morning or after ten o'clock in the evening of any day. The constitutionality of this statute was challenged and the court granted a motion in arrest of its judgment of conviction. An appeal was taken by the People to the Appellate Division, First Department, which, by a divided court, sustained the constitutionality of the statute and reversed the order in arrest of judgment. This is an appeal by the defendant from that order of reversal.

FACTS

The facts are set forth in the information in the case and are not disputed. The defendant was the owner of a factory engaged in the business of printing and binding, and on February 4, 1914,

unlawfully employed a woman, May Cashel, to work in its factory from 10:24 P. M. on the evening of February 3, 1914, and thence continuously to four o'clock on the morning of the following day. The defendant did not deny that this employment was in violation of section 93-b of the Labor Law.

INTEREST OF THE FACTORY COMMISSION IN THIS CASE

The New York State Factory Investigating Commission, which by permission of the court submits this brief as *amicus curiæ,* was created by chapter 561 of the Laws of 1911, and continued by chapter 21 of the Laws of 1912, chapter 137 of the Laws of 1913, and chapter 110 of the Laws of 1914. It was directed to inquire into conditions generally under which manufacturing is carried on throughout the State, and to make recommendations to the Legislature for such legislation as might be found necessary to remedy evil conditions disclosed. The Commission is still in existence, its term of office not having expired.

Section 93-b of the Labor Law, the constitutionality of which is now before this court, was one of a series of bills recommended by the Factory Commission in its second report to the Legislature, submitted January 15, 1913.

This case involves one of the most important questions of social legislation before any court in recent years, and coupled with the interest of the Commission in the outcome of any of the laws recommended by it, there was felt to be a corresponding duty to submit to the court for its consideration all of the facts, findings and conclusions that led to the enactment of this section of the Labor Law.

HISTORY OF LEGISLATION WITH REFERENCE TO NIGHT WORK OF WOMEN IN FACTORIES

In 1899 an act was passed by the Legislature (chapter 192 of the Laws of 1899), which prohibited the employment of women in factories before six o'clock in the morning or after nine o'clock in the evening of any one day. This section of the Labor Law was re-enacted by chapter 184 of the Laws of 1903, and read as follows:

"Section 77 * * * No minor under the age of eighteen years, and no female shall be employed, permitted, or suffered to work in any factory in this state before six o'clock in the morning or after nine o'clock in the evening of any day * * *."

A case to test the constitutionality of this section was instituted in the court of Special Sessions for the city of New York against one Williams, the owner of a binding and printing factory. He was convicted. The Appellate Division, by a divided court, rendered a decision reversing the judgment of conviction and holding the statute unconstitutional.

People v. Williams, 116 App. Div., 379.

An appeal was taken to the Court of Appeals, which unanimously affirmed the judgment of reversal of the Appellate Division, and concurred in the determination that the statute was unconstitutional.

People v. Williams, 189 N. Y. 131 (1907).

That was the situation when the Factory Investigating Commission commenced its investigations in 1912.

INVESTIGATION OF THE COMMISSION

In connection with its general investigation of industrial conditions, the Commission in 1912 made a special investigation of night work of women in factories, and on January 15, 1913, submitted a detailed report on the subject with its recommendations, to the Legislature. This investigation and the report and findings thereon are to be found in Volume I of the Second Report of the Factory Investigating Commission, pages 193 to 215, and Volume II of the same report, pages 439 to 459.

The Commission's investigation was conducted by a staff of trained investigators, one of whom was a factory inspector, assigned to the Commission by the State Department of Labor.

The basis of the Commission's recommendations to the Legislature is not limited to conditions in one large industrial plant. It is, however, the opinion of this Commission that the careful intensive study that was made of the working and living conditions and

the home life of the one hundred and fifty women employed in the continuous night shift in that establishment, the results of which are before this Court for consideration, amplifies and authoritatively confirms all previous information and statistics gathered in the worldwide movement to protect working women from the dangers of night work. These are facts current, local, specific, focussing by means of an intensive study in one particular industry the knowledge otherwise accumulated.

The Commission did not limit its investigations and studies to the industrial establishment above referred to, although the shocking conditions there disclosed, strikingly emphasized the need for some remedial legislation for the protection of women workers.

The Commission also inquired into the subject of night work of women as follows:

1. Conditions in the textile mills in Utica.
2. Conditions in canneries.
3. It accepted as one basis for its recommendations the findings made in an official investigation conducted by the United States Government (Report on Condition of Woman and Child Wage-earners in the United States, Vol. V., p. 205), and to the extent that it was verified by that official investigation the Commission accepted the results of an investigation conducted into conditions in the bookbinding trade by an able and impartial investigator, the results of which are embodied in a recent publication (Women in the Bookbinding Trade; by Mary Van Kleeck of the Russell Sage Foundation).
4. The Commission studied the laws in this and in European countries, prohibiting night work of women in factories; the conditions that led to their enactment and the results that followed therefrom.
5. The Commission also made a careful study of the opinions of experts concerning the effect of night work on the health and morals of women employed in factories.

On the subject of the fairness of the investigation it should be stated that the Commission, before it submitted its recommendations to the Legislature, issued for public consideration a series of tentative bills for the improvement of working conditions, and that

one of these tentative bills was that prohibiting night work of women in factories.

> "The Commission followed the procedure of issuing early in the fall (of 1912), in the form of proposed bills, the most important recommendations that had been received for remedial legislation. These tentative bills embodied recommendations, none of which had been formally passed upon by the Commission. The Commission, however, believed that all those who were interested in its work or who would be affected by the legislation suggested, were entitled to know precisely the recommendations which had been received from various sources and were then under consideration. This method has proved very successful. About thirty tentative bills, dealing with different phases of the Commission's work, were sent to several thousand persons throughout the state. As a result, suggestions and criticisms were received from all of the various interests. Associations of employers and of employees, scientific societies and social organizations formed committees to consider the proposed bills. From many of these were received briefs and memoranda. Beyond doubt the issuance of these tentative bills created great interest in the work of the Commission and gave to it the benefit of the wisdom and experience of very many employers, employees, social workers, and experts throughout the state."
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> Second Report, New York State Factory Investigating Commission, Vol. I, pp. 19, 20.

Public hearings, which were given the widest publicity, were held to consider these tentative proposals. Everyone interested was given an opportunity to be heard. The Commission in its report says, concerning the bill prohibiting night work of women in factories:

> "No objections to the proposed measure have been received from any source although the bill has been widely distributed. On the contrary the purpose of the bill has been commended by physicians, by manufacturers and by all those having the best interests of the State at heart."
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> Second Report, New York State Factory Investigating Commission, Vol. I, p. 212.

At this point, we wish to emphasize that although the Commission has been in existence for two years since the enactment of this law and has held public hearings in every large city of the State, it has received no objection to this law from anyone, except the small group of workers in one particular industry represented by the appellant in this case. To this we shall revert more fully later.

In considering the investigation conducted by the Commission and the comments on it made by the appellant, it should also be borne in mind that among the members of the Commission which recommended this night work bill to the Legislature, were Miss Mary E. Dreier, the President of the Women's Trade Union League, and Mr. Samuel Gompers, the President of the American Federation of Labor. As against the comments of the counsel for the appellant, we offer to the Court the following extracts from the opinion in this case in the Appellate Division below:

Mr. Justice Ingraham said, in referring to the investigation of the Commission:

> "That investigation seems to have been quite thoroughly conducted and resulted in a report to the legislature which, among other remedial legislation, recommended the enactment of the statute now under consideration. The report of that commission is startling both in regard to the effect on the physical well-being of the night workers and the moral effect upon the women who are employed in factories at night."

Mr. Justice Hotchkiss who concurred in the majority opinion, said:

> "The act under consideration was the result of a report to the legislature by a Factory Investigating Commission, by which the original act was proposed. No one who has read that report can for a moment doubt the propriety of the act having regard for the conditions in this state disclosed by the report."

FINDINGS OF THE COMMISSION

The findings of the Commission are set forth in the Second Report to the Legislature (Vol. 1, pp. 193-215), from which we quote as follows:

" None of the investigations carried on by the Commission has shown conditions more dangerous to health and public welfare than the employment of women at night in the factories of the State. Conditions of life were revealed which seemed certain not only to destroy the health of the women employed at night, but to threaten the very existence of the young children dependent upon them for nourishment and care.

For instance, in one large industrial plant in the central part of the State, from 130 to 140 women were found at work on night shift. They were employed for ten hours on five nights of each week, from 7 P. M. to 5 A. M., with a break of half an hour at midnight. The output of this factory is twine made from hemp and the work involves exposure to much dust, great noise, and in some rooms, great heat. The married women who worked at night had on an average about four and one-half hours of sleep in the day time; they prepared three meals each day, including breakfast which had to be made ready immediately after the night's work. They also did all the washing for their families. Many of them returned to their homes after ten hours of work at night in the dust and roar of the twine factory, to nurse their babies in the morning and during the day time.

The Danger to Health from Night Work

The twine works were repeatedly visited by agents of the Commission, both at night and during the day and individual reports were secured, giving the personal histories of one hundred of the women who worked on night shift.

The general appearance of the night workers in thus described:

> ' Most of the women on the night shift are married,' says the investigator. ' The appearance of the women workers is very disheartening. They are stolid, worn looking, and pale. Their clothes, faces, and hands are covered with oil and hemp dust.'

And again:

> 'The women as a whole were a disheartening group, in their oily, dust laden clothes, with drawn white faces and stooping gait.'

* * * * * * * * *

We have seen that the married women who worked on night shift had on an average only about four and one-half hours of sleep in the day time.

> 'The hours of sleep varied with the individual,' continues the investigator. 'Some slept an hour or two in the morning, and for a time in the afternoon; others slept at intervals of about an hour each during the day. They all slept in bedrooms which had been occupied during the night by husband and children.'

Forty-eight of the women worked at night in the spinning room of the mill, thirty in the balling room, twenty-two in the preparing room. Of the conditions of work the investigators say:

> 'Dust is the predominating evil.' Again: 'There is considerable dust in nearly all parts of the mill. This dust is caused by the nature of the raw product, hemp. It fills the preparing room where the hemp bales are opened and the hemp prepared. * * * The dust in this department is so thick that the clothes and caps of the women are completely covered with it.'

Of the noise in which the women work, the investigator says:

> 'The clatter of the machinery here is so frightful that a voice can hardly be heard below a shriek. * * * The intense noise of the machinery must have some effect on hearing and the nervous system. The investigator had ringing in her ears and was somewhat deafened when she went from the spinning room into the office. * * * The night matron said she could not stay as

long as the investigators did in the spinning room because she couldn't stand the noise, but that the Poles were used to it.'

Besides noise and dust, some of the workers are subjected while at work to great heat. 'The spinning room in the basement is eight or nine feet high. On hot days it must be a veritable inferno.' 'The watchman says that on very hot nights, the temperature on the top floor is 108 degrees F.,' writes the investigator quoted above.

The wages earned were as follows:

One-third of the women earned from $7 to $7.99 a week, another third earned from $8 to $10 (28 earned from $8 to $8.99, and 6 from $9 to $10). Only one woman made $12 a week; 11 women made as little as from $6 to $7. The remaining 23 received varying wages, so that an average could not be accurately taken.

Most of the 100 women specially investigated were married. There were 18 unmarried and 5 widowed. Of the 82 married or widowed nightworkers, 75 had children. Of the children 24 were infants under 1 year, 19 between 1 and 2 years, 18 between 2 and 3 years, 17 between 3 and 4 years, and 19 between 4 and 5 years. There were 43 children between 5 and 10 years of age. In many cases the mothers explained that they worked at night, though they found the labor exhausting, in order that they might nurse or take care of their children in the day time. 'N. W. wants to work at night on account of her baby which she is nursing.' 'N. D. wants to do night work on account of baby.' 'N. T. is nursing her baby now and would rather work nights so that she can feed the baby in the day time;' such are the repeated reports of the investigators. Only a few of the women seemed to realize that this combination might prove disastrous.

> 'Mrs. M. N—— changed from night to day work, because it took all her strength to stay up all day besides. Now working days she gets up and dresses and cares for all the children before she goes to work.

'Another woman says she did not like night work. It was too hard. Quit three weeks ago. "I used to be cross to my children when I worked nights, because I was so tired all the time."'

* * * * * * * *

The Danger to Health from Late Overtime Evening Work

The preceding examples illustrate the dangers of a regular night shift. But far more usual than the all-night shift is employment 'overtime' until late at night. In many trades employees are required to work many hours after and in addition to the regular day's work, a practice which subjects women already fatigued to the added strain of night employment. A detailed study of bookbinding in New York city carried on during the last few years has just been published.* The hours of labor were reported of women working in 208 binderies employing 5,689 women.

'Few binderies (not more than two or three),' says the report, 'have regular night shifts for women who begin work in the evening without having worked during the day. In a far greater number, girls who work during the day stay on through the night hours * * * Some of the actual instances of overtime work demonstrate that the prescribing of a definite rest period during definite hours of the night is essential to prevent the joining together of two working days at the stroke of midnight.'

Thus, for instance, one girl of 23 worked from 8:30 A. M. until 5:30 the next morning.

'She was employed to fill the boxes of a gathering machine in a magazine bindery. She worked from 8:30 A. M. until 5:30 P. M., with a half hour at noon. She began again at 6:30 P. M. and worked until midnight.

* Women in the Bookbinding Trade Chap. VI; by Mary Van Kleeck, Secretary of Committee on Women's Work, Russell Sage Foundation, New York, 1912.

After a recess of thirty minutes she continued her day's task until 5:30 A. M. At the time of this employment the New York law permitted a twelve-hour day, and since the employment of women at night was not prohibited, a working day of twenty-four hours was legal, for with the stroke of the clock at midnight a twelve-hour day ended and another twelve-hour day began. In the case of this girl, not the long hours of work, but the fact that fourteen hours instead of twelve preceded midnight was a violation of the law.'

Under the present fifty-four hour law, which allows a work ing day of only ten hours, the lack of a legal closing hour would presumably allow the employment of a woman ten hours before and ten hours after midnight. This is a stretch of twenty working hours, practically continuous, but falling on two calendar days.

In 152 cases, instances of illegal overtime were found among the bindery workers in 42 binderies. In 18 per cent. of these cases — almost 1 in every 5 — work continued until 10 P. M. or much later at night, in addition to the day's work.

'Several flagrant cases were included in this last group. One reported work until 12:30 A. M.; three until 1 A. M.; two until 3 A. M.; one until 5:30 A. M.; one until 8 A. M.; and one until 9 A. M. In every one of these cases the girl had gone to work in the morning, had worked through the day and evening until after midnight.

'The detailed reports of working days longer than twelve hours,' says the report, 'show appalling conditions. These hours represent actual working time, after deducting the length of noon hours and the time allowed for supper. In four positions the day was 12¼ hours long; in seven, 12½; in three, 12¾; in nine, 13; in one, 13½; in two, 14; in two, 15½; in two, 16; in two, 18; in one, 19½; in one, 21½; and in one, 22.'

The United States Bureau of Labor in its report upon wage-earning women* confirms our foregoing assertion of the existence of these excessive hours of labor for women in bookbinderies. In one bookbinding establishment in New York city agents of the government found girls employed overtime from 16 to 24¼ continuous hours, once and sometimes twice a week during a period of from 16 to 24 weeks.

The Commission found instances of extreme overtime work by women in the canneries. Here the employment of many women from the morning of one day until after midnight, or even until dawn of the next day is proved by the employer's written records.

The time sheets of one factory for July 11th, 12th and 13th, were put in evidence at a hearing held by the Commission at Auburn, N. Y., on August 14th, 1912. This establishment packs fruits and vegetables and on the busiest pack employs from 150 to 200 people. About 75 are women. One of these women was a Mrs. D——. The overtime hours, incredibly long, which she worked were clearly proved.

The counsel for the Commission examined the manager of the factory:

'Q. According to your time sheet which you have produced of July 10th, 1912, which is Wednesday, Mrs. D—— began work at 6:45 in the morning that day; is that right? A. Yes.

Q. And she finished at 2:30 the following morning? A. Yes.

Q. Working 19¾ hours? A. Of course she had ½ hour out for lunch and supper that we gave her.'

* * * * * * * * *

'Q. You produce the time sheet for the date of July 11, 1912, and I find the same Mrs. D——, that is the same one, is it? A. Yes; 16 hours.

Q. And she began that morning at a quarter of seven and stopped at 12 o'clock, and she began at 1 o'clock —

* Report on Condition of Woman and Child Wage-earners in the United States. Vol. V, p. 205. Senate Document No. 645, 61st Congress, 2nd Session, 1910.

that was her lunch hour? A. Yes; she had an hour out.

Q. You didn't pay for that hour? A. No.

Q. Then she stopped at 6 and started at 7; you didn't pay for that hour? A. No.

Q. She stopped at a quarter of 1 in the morning? A. Yes, sir.

Q. And she worked 16 hours that day? A. Yes.'

'Have you got July 13, Mrs. D——? She began that morning, according to your sheet, at a quarter to seven, stopped at 12, began at one in the afternoon and stopped work at 6, stopped at 6 and began at 7 and worked until a quarter of two the following morning; 17 hours during the day, actual work, taking out at her own expense one hour for lunch and one hour for supper? A. Yes.'

Other women were employed in the same factory for hours equally long. This fact was shown by the employer's own time sheets. From these it was found that on July 11th, from among 55 women workers, one-half (27) worked until after 11 P. M., most of them continuously from 6 or 7 A. M., with an hour out for dinner and supper at their own expense. Of the 27 women who worked until late at night,

15 worked until after 11 P. M.,
2 worked until midnight or 12:30 A. M.,
4 worked until between 1 and 2 A. M.,
6 worked until 2 A. M. or later.

The women who did not finish until 1 or 2 A. M., were employed from 16 to 17 hours out of the 24.

The time sheets show that on the next day, July 12th, the night work dropped off somewhat, yet 12 women out of the 55 worked later than 10 P. M.

On the third day, July 13th, 32 or almost two-thirds of the women worked late at night again. 23 of them worked until between 1 and 2 A. M.; 5 of them worked until between 2 and 3 A. M. On this day again these women were employed from 16 to 17 hours.

Instances may be further cited showing also the duration of night work done overtime in the laundries of New York City. In February, 1912, an inquiry was made by the Bureau of Mediation and Arbitration of the New York State Department of Labor into the causes of a strike of laundry employees. At a number of hearings, these employees testified under oath in regard to their hours of labor. Testimony was given showing that work often continued until midnight and occasionally until 1 A. M. The three schedules following, of long weeks reported in the stenographic minutes of evidence, while not necessarily typical, nevertheless illustrate to what extremes the night work of women in laundries may be carried when there is no legal closing hour:

Day of week	Woman who has worked two years in laundries A. M. P. M.	Woman who has worked five years in laundries A. M. P. M.	Woman who has worked eleven years in laundries A. M. P. M.
Monday	12—12	12—12	?— 9
Tuesday	9—11.30	9—11.30	9—11
Wednesday	9— 9.30	9— 9	9— 8
Thursday	9— 7	9— 7	9— 7.30
Friday	9— 6.30	9— 6	9— 6
Saturday			

In many other occupations also, employment overtime often occurs until late at night. This is especially the case, although to a less degree than in the binderies and laundries, during the fall months in factories that supply the Christmas market, notably in candy and paper box manufactories. Overtime is usual too, through the wide ramifications of the clothing and stitching trades, and also in dressmaking and millinery establishments."

BILL RECOMMENDED BY THE COMMISSION

The Commission in its report to the Legislature then made the following recommendations:

"The Commission recommends that night work of women in the factories and workshops of this State be at once prohibited. It finds that such work is unnecessary from an economic point of view and indefensible from the standpoint

of public welfare; for it is dangerous to health, inimical to good morals, and destructive of the vitality of women as wives and mothers. We, therefore, recommend the enactment of a new section of the labor law as follows:

Section 93-b. Period of rest at night for women. In order to protect the health and morals of females employed in factories by providing an adequate period of rest at night, no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day.

We believe that this bill meets the objections raised by the Court of Appeals in declaring unconstitutional that portion of Section 77 of the Labor Law (Laws of 1903, Chapter 184), which prohibited the employment of women in factories between 9 P. M. and 6 A. M. (People v. Williams, 189 New York, 131, decided 1907). The bill submitted by the Commission fixes 10 P. M. as the closing hour and specifically states that its purpose is to promote health."

Second Report, New York State Factory Investigating Commission, Vol. I, p. 203.

PURPOSE OF THE BILL

The purpose of the bill recommended by the Commission was to protect the health and morals of women employed in factories by prohibiting night work and providing for an adequate period of rest at night. That purpose was expressed in the title of the act and in the body of the section itself, not in the belief that to say that a law was a health measure was in fact to make it so, but to show clearly to the Court that the Legislature, when it enacted the section under consideration, intended and believed it to be a health measure and to remove the doubts on that score expressed by the Court in the Williams case when the prior statute was before it for consideration.

The Legislature in enacting this law aimed to protect the health and morals of women by prohibiting the continuous all-night shift in factories and by making it impossible to prolong illegal overtime of women beyond ten o'clock in the evening. To accomplish these purposes, the Legislature found it was necessary to fix a

closing and an opening hour. In no other way did the Legislature believe that there could be an effective enforcement of this law through methods of inspection to which the State would be justified in resorting.

CONTENTIONS OF THE COMMISSION

The Commission contends:

1. That night work of women in factories is dangerous to health, inimical to good morals, and destructive of the vitality of women as wives and mothers.

2. That the prohibition of such night work by the Legislature is a reasonable exercise of the police power of the State.

3. That the means taken to secure an effective enforcement of the purpose of the act, that is, the fixing of closing and opening hours, are reasonable and properly within the discretion of the Legislature.

4. That this law does not deny to women the equal protection of the laws.

5. That the decision of the Williams case is not decisive of the case at bar.

These contentions are affirmatively set forth, although the burden of establishing the unreasonableness of the law rests upon the appellant and under the decisions, the law should be sustained unless such unreasonableness is established clearly and beyond doubt.

POINTS

I

NIGHT WORK OF WOMEN IN FACTORIES IS INJURIOUS TO HEALTH, INIMICAL TO MORALS AND DESTRUCTIVE OF THE VITALITY OF WOMEN AS WIVES AND MOTHERS.

To support this contention we submit the following:

1. The report of the Factory Investigating Commission submitted to the Legislature on January 15, 1913.

2. The "Facts of Common Knowledge" on the physical, moral, and economic effects of night work, collected in a brief prepared by Louis D. Brandeis, Esq., and submitted on behalf of the people in this case.

3. The legislation prohibiting night work in various states in this country and in Europe, and the international convention or treaty of 1907 resulting in an agreement by the leading European countries that night work was injurious to health and should be prohibited in the best interests of the workers and of the State.

The court may take judicial notice of all of the foregoing.

Muller v. Oregon, 208 U. S. 412.

Matter of Viemeister, 179 N. Y. 235.

Tenement House Department v. Moeschen, 179 N. Y. 325.

"It is well settled by this court and in the Supreme Court of the United States that the constitutionality of a statute may be determined by considering its language and the material facts of which the court can take judicial notice."

Bartlett, J., in Tenement House Dept. v. Moeschen, 179 N. Y. 325, 330.

1. REPORT OF THE FACTORY INVESTIGATING COMMISSION

This report of an official investigating commission submitted to the Legislature shows beyond doubt that night work of women in factories is injurious to their health and exercises a deteriorating influence on the race.

We have already set forth earlier in this brief the findings of the Commission on this subject. We submit the following conclusions arrived at by the Commission, on which was based its recommendation to the Legislature that night work in factories be prohibited.

"The authorities all agree that after a shorter or longer period women who are employed at night or until late evening hours suffer from all those symptoms which mark lowered vitality, if not actual disease, such as loss of appetite, headache, anemia, and weakness of the female functions * * *.

The chief danger to health from night work is thus due to the inevitable lack of sleep and sunlight. Recuperation from fatigue takes place fully only in sleep, and best, in sleep at night. Hence, night work is, in a word, *against nature.* When exhausting factory work fills the night, and household work most of the day, health must inevitably be sacrificed.

This injury to health is all the greater, because sleep lost at night by working women is never fully made up by day. For in the first place, sleep in the day time is not equal in recuperative power to sleep at night. Dr. Epstein says, in his work on the 'Diseases of Bakers': 'Doctors and experts on hygiene are unanimous in declaring that sleep at night can in nowise be replaced by sleep in the day time.'* Various other medical authorities confirm this opinion. Moreover, quiet and privacy for sleep by day is almost impossible to secure. Upon returning home in the middle of the night or at dawn the workers can snatch at most only a few hours' rest.*

* * * * * * *

Even without night work it has been shown that the return of married women to factory work after childbirth increases the mortality of infants. Indeed, owing to complex causes a much higher death rate of infants exists in such manufacturing towns as Fall River, Massachusetts, and Biddeford, Maine, than in non-manufacturing towns. The following table shows this fact:

* Epstein Handbuch der Arbeiterkrankheiten, 1908.

The number of deaths of infants under one year per 100 deaths at all ages was, in the year 1910 as follows:*

Boston	19
Chicago	21
New York City	21
Biddeford	27
Lowell	29
Lawrence	35
Holyoke	35
Fall River	39

In 1910 the number of deaths of infants under one year per 1,000 births in the selected cities, was as follows:†

New York City	125
Boston	126
Philadelphia	138
Lawrence	167
New Bedford	177
Holyoke	213
Lowell	231

What must be the result when in addition to the ordinary labor of mothers, the factory night work of mothers is added?

Ignorant women can scarcely be expected to realize the dangers not only to their own health but to that of the next generation from such inhuman usage. But it is precisely to prevent such conditions of toil as threaten the welfare of society that labor laws are designed. These instances show the urgent need of providing by law an adequate period of rest at night for women who work in factories.

* Bureau of the Census. Department of Commerce and Labor Bulletin 109. Mortality Statistics, 1910, p. 14, Washington, 1912.

† Ibid, p. 18.

The Danger to Morals

Besides the injuries to health from the all night shift and the late overtime night work of women, it has universally been found that such work renders women liable to unusual moral dangers and temptations. When women are dismissed in the middle of the night or at dawn, they face the possibility of insult or attack on the streets. Those, moreover, who are living away from home find it difficult to obtain respectable boarding places to which they may return after midnight."

Second Report, New York State Factory Investigating Commission, vol. I, pp. 194, 195, 197, 198, 202.

2. FACTS OF COMMON KNOWLEDGE ON THE EVILS OF NIGHT WORK

This brief takes up in detail the objections to night work of women in factories and cites authorities, including the reports of physicians and scientists, recommendations of investigating commissions and others, to show that such night work for women is one of the greatest evils in our industrial system and should be prohibited.

The Court will undoubtedly carefully study the comprehensive data that has been collected in this brief for its information. The appellant in his brief seeks to convey the impression that the "Facts of Knowledge" is out of date and "concerns itself in the main with old conditions." He cites in support of this contention a quotation from the "Facts of Knowledge," from Great Britain in 1834.

Any examination of the "Facts of Knowledge" will show that it deals with conditions existing down to and including the year 1913, when the law in question was enacted. The quotations from the early British factory inspectors reports in the "Facts of Knowledge" show that the evils of night work for women employed in factories were recognized in England over eighty years ago. While conditions of employment have improved since then, the fundamental physiological dangers of night work for women have remained the same, aggravated by speeding and the new strain of industry. The "Facts of Knowledge" show the grow-

ing appreciation and study of these dangers from year to year and decade to decade, by physicians, scientists and factory inspectors throughout the world.

We submit herewith some of the passages in this brief which sum up the views therein represented.

New York State Department of Labor, Vol. 8, Bulletin — 1906 — Albany, 1907.

"In Europe the subject has been discussed as part of the question of rest. In European legislatures and international congresses the prohibition of women's night work has been urged as necessary to secure to working women their normal rest, and also on grounds of morality. Women have less physical strength, and are more subject to over-fatigue than men, and this is especially true of night workers because household duties prevent women who work at night time from obtaining their necessary rest in the day time. While the women's work in the industrial employments is more extensive abroad than in the United States, the line is drawn on night work in all the leading commercial nations" (pp. 337, 338).

Brief on "Facts of Knowledge," page 11.

Das Verbot der Nachtarbeit. Bericht erstattet an den Internationalen Kongress fur gesetzlichen Arbeiterschutz in Paris, 1900. (*Schmollers Jahrbuch* 25 3-4). *The Prohibition of Nightwork. A Report at the International Congress for Labor Legislation. Paris,* 1900. (*Schmoller's Yearbook* 25 3-4). Dr. Max Hirsch.

"It is a fact generally recognized by science and experience that night work is, *per se,* injurious to the human organism. This harmfulness is shown in varying degrees according to the length, the frequence, and the nature of the work, and the age, sex, and constitution of the worker. And industrial night work especially,— that is to say, regular or frequent night work — is emphatically to be regarded as a factor dangerous to health. * * * Although some exceptions may be found of individuals whose health does not

suffer from night work, its ill effects for the large majority cannot be denied" (p. 1259).

"Women have considerably less power of resistance (than men) to the hardships of industrial life, and especially to night work. Although they have in many directions astonishing powers of accomplishment and endurance, this does not prevent them from being unfitted to meet the demands of industrial work, since their bodies are weaker to start with, and the exercise of sex function makes them much weaker, hampers them, and subjects them to injuries to which men are immune. * * *"

"We have said above that in the case of men, and especially fathers of families, one of the chief reasons why night work is injurious to health is that it interferes with sleep. For wives, mothers, and housekeepers in general, the matter is much worse in this respect, since all such women have of course much greater and more direct family duties to perform in the day time. When they come home after their night's toil they must first of all look after husbands, children, and rooms and they must get breakfast, etc. * * * After a few hours' rest (when they can get it), it is time to get dinner; after dinner is over, there are all sorts of things to be done for the children, etc.; and in a few hours later very much the same things have to be done over again. * * * No amount of heroism can ward off the ruinous consequences of such a regime — consequences to the health of the woman herself, of the other members of the family, and of the children still to come" (pp. 1265-1266).

Brief on "Facts of Knowledge," pp. 123-125.

Revue d'Hygiene et de Police Sanitaire, XII, 1890. *Paris. Note Sur le Travail de Nuit des Femmes dans l'Industrie. (Night Work of Women in Industry)*, Dr. H. Naples. (*Read before the Society of Public Medicine and Industrial Hygiene, Feb.,* 1890.) *Paris,* Vallin.

"To sum up, when one considers either the hygienic side or the moral side of the problem, it seems necessary to pro-

hibit the night work of women. We have a law which protects childhood because we know how useful it is, with the small natality of this country, to preserve these lives, precious and altogether too few as they are; and with singular inconsistency the legislature makes a law which authorizes girls and women to work in shops at night, which prepares girls for maternity by rendering them anaemic and favors their falling into prostitution, and which at the same time keeps mothers separated from their infants, left at lodgings without care and without milk, exposed to the dangers which menace early life, and for the avoidance of which we expend in France each year more than a million and a half. That is neither just, nor logical, nor humane."

Brief on "Facts of Knowledge," p. 140.

Report of Senator Richard Waddington of the French Chamber of Deputies on the industrial work of children, young girls and women, June, 1890.

"Is it not terrible to reflect that these anaemic working women who work at night are the mothers of the coming generation, and must it not be feared that they will indeed given birth to an 'army of invalids' as one witness said?" (p. 1088).

Brief on "Facts of Knowledge," p. 181.

The appellant asserts that in recent years factory conditions have improved, the hours of labor of women have been decreased, and therefore the "Facts of Knowledge" concerning the evils of night work have no application to-day.

Factory conditions have improved, but the ideal conditions mentioned in Miss Tarbell's article, from which the appellant quotes in his brief (p. 46), by no means prevail in this State. The instances she mentioned are unfortunately the marked exception, rather than the general rule. If the court is interested in knowing what the sanitary conditions in factories are, it will find the facts based upon a comprehensive and scientific investigation, embodied in the first and second reports of this Commis-

sion. (Preliminary Report, Vol. 1, pp. 71-75, 117-153; Second Report, Vol. 1, pp. 227-234; Vol. 2, pp. 439-611.)

The appellant has, however, neglected to mention what is considered by all those familiar with modern industry, one of its greatest factors: that is, the growing strain of industry. There is an increased strain resulting from monotonous work and speeding-up, intensified by the piece work system which so largely prevails in industries in which women are employed. The continuous strain and attention, due to the mechanical nature of the work, is nerve-racking in its effect upon the workers. Newer and faster machines are being constantly introduced, and the number of machines tended by individual workers are constantly being increased. Commenting on this, an investigator in a report made to the Commission on women workers in factories in New York State in 1912, says as follows:

> "Most of the work done by women in factories, however, is injurious to health, not so much on its physical side, but on account of the nervous strain involved in the extreme monotony of the processes and the speed with which they are carried on. Modern industry has been developed chiefly by men for men. Newer and faster machines are continually being introduced. In the clothing industry women operate machines that take from 1,500 to 2,000 stitches a minute. In the paper box trade girls will "stay" or "fill-in" upwards of 2,000 boxes in a day, involving over 4,000 pressures with the foot. Automatic die-presses open and close every two seconds, and within this time the woman worker must remove the printed sheet and insert a fresh one. In the knitting mills in Utica, machines take 3,500 stitches a minute. Unlimited speed and unlimited production is the manufacturer's dream, but modern machine production is taking no account of the strain upon women workers of long hours at such monotonous and nerve-racking work in destroying their health, and thus lowering the efficiency of future generations of workers."
>
> Preliminary Report New York State Factory Investigating Commission, Volume I, pp. 294, 295.

There is then in modern industry a greater strain upon the women workers than ever before, and this makes it imperative that night work of women in factories be prohibited, and that they be afforded an adequate period of rest at night.

3. LELISLATION PROHIBITING NIGHT WORK OF WOMEN

Legislation in this Country

Laws in this country prohibiting night work of women in factories are found in the following states:

Massachusetts (1890); Indiana (1894); Nebraska (1899); Pennsylvania (1913); Oregon (1914).

Night work of women in mercantile establishments is prohibited in:

Nebraska (1899); South Carolina (1911); Connecticut (1913); Oregon (1914).

The detailed provisions of these laws and the opening and closing hours specified in them will be found in the brief on " Facts of Knowledge," pages 1–3.

Foreign Legislation

The first statute limiting the hours of labor of adult women in any country was the British law of 1844. That law limited the hours of labor of women in textile mills to twelve hours in one day and provided for a period of rest at night between 8:30 P. M. and 5:30 A. M. By later enactments further restrictions were introduced.

Brief on " Facts of Knowledge," pp. 7a and 7b.

Following Great Britain, night work of women in factories before and after specified hours was prohibited by law in the following countries: Switzerland, 1877; Austria, 1885; Netherlands, 1889; Germany, 1891; France, 1892; Italy, 1902.

International Convention

Beginning with the International Congress of Hygiene and Demography in 1877, various international meetings passed resolutions declaring that the prohibition of industrial night work of women was necessary to preserve their health and morals. In 1901 the International Association for Labor Legislation investi-

gated the subject of industrial night work of women in various countries and studied the results proceeding from laws prohibiting such night work. Following this investigation and upon the recommendation of the International Association for Labor Legislation, the Federal Council of Switzerland called a conference of European powers to meet at Berne, Switzerland, on September 26, 1906, to consider this problem. Representatives of fourteen European governments met and signed an International Convention for the prohibition of industrial night work for all women. Articles one and two of the Convention read as follows:

> "Article 1. Industrial night work shall be prohibited for all women without distinction of age, with the exceptions hereinafter noted. This agreement shall apply to all industrial establishments employing more than ten men and women; in no case shall it apply to those establishments in which only members of the proprietor's family are employed. Upon each of the contracting states devolves the duty of defining what shall be understood by "industrial establishment." Among these shall be included, in any case, mines and quarries, as well as industries for the manufacture or working up of raw materials. On this last subject legislation in the individual states shall fix the limit between industry on the one hand and agriculture and commerce on the other.
>
> Article 2. The night rest contemplated in the preceding article shall have a minimum duration of eleven consecutive hours; in those eleven hours, whatever else be the legislation of each state, shall be included the interval from ten o'clock in the evening to five o'clock in the morning. In the states in which the night work of adult women employed in industry has not yet been regulated, however, the length of uninterrupted rest may, temporarily, for a period of not over three years, be limited to ten hours."

Between 1906 and 1912 all the powers represented except Denmark ratified the Convention, and in many cases their legislation provided for a longer period of rest at night than that provided by the international agreement.

Brief on " Facts of Knowledge," pages 5–8.

The State of New York in enacting the statute prohibiting night work of women in factories before and after specified hours, is therefore taking no new or untried step. Such legislation has been in force for many years in some of the States of the Union, and in practically every European country and has met with general approval.

CONCLUSION

It is thus established that not only is there a reasonable connection between the protection of health and the prohibition of night work of women in factories, but that such prohibition is clearly demanded by the best interests of the workers and by the State itself for its own preservation. The investigations of the Factory Commission, the experience and legislation in this and in foreign countries and the opinions of physicians and other experts and of legislative commissions all over the world make this conclusion irresistible.

The law under consideration will not deprive thousands of women of a livelihood. That is a reckless and misleading statement made by the appellant in his brief, and is not supported by any evidence before this Court, or by any facts gathered by the Commission.

The law was passed by the Legislature of 1913, after the proposal was given the widest publicity by the Commission, and after a public hearing held by legislative committees which was largely attended. Since then the Commission has been holding hearings in different parts of the State, and in all that time they have heard but one objection to the law prohibiting night work of women in factories, and that comes from the small group of workers employed in composing and bindery rooms represented by the appellant, some of whom desire to be employed on continuous night shifts, and that complaint has been limited to New York City. Of the women so employed only a small proportion are ever called upon to work at night, and a readjustment that would follow upon the enforcement of this law would, without doubt, result in work being given to those women in the day time.

The appellant contends that the women in this industry should be permitted to work on a continuous night shift, that their work

is light, and that the nature of the business demands this extra work. Without going into the merits of this contention, it is clear that if any exemption is necessary or proper, that is for the Legislature and not for the courts to pass upon. The general approval with which this law has been met by the great mass of manufacturers employing women, and by the women workers themselves, shows that it is most reasonable in its application.

> "It is not the hardship of the individual case that determines the question, but rather the general scope and effect of the legislation as an exercise of the police power in protecting health and promoting the welfare of the community at large."
>
> Bartlett, J., in Tenement House Dept. v. Moeschen, 179 N. Y. 325, 330.

A brief has been filed in this court on behalf of certain ice-cream manufacturers, as *amicus curiae,* challenging the constitutionality of the statute in question. *It should be stated, however, that the Factory Commission at no time received any objection to this law from a single manufacturer or employee in the ice-cream manufacturing industry.*

II

THE PROHIBITION BY THE LEGISLATURE OF NIGHT WORK OF WOMEN IN FACTORIES IS VALID AS BEING A REASONABLE EXERCISE OF THE POLICE POWER OF THE STATE.

Holden v. Hardy, 169 U. S. 366.
Muller v. Oregon, 208 U. S. 412, affirmed in Hawley v. Walker, 232 U. S. 718.
C., B. & Q. R. R. Co. v. McGuire, 219 U. S. 549.
People v. King, 110 N. Y. 418.
People v. Ewer, 141 N. Y. 129.
People ex rel. Nechamcus v. Warden, 144 N. Y. 529.
People v. Havnor, 149 N. Y. 195.

Under the preceding point it has been shown that night work of women in factories is injurious to the health of the workers and inimical to the welfare of the community. If that is so the Legislature, under the authorities above cited, has power to enact a law prohibiting that evil.

In C., B. & Q. R. R. Co. v. McGuire (219 U. S., 549), Mr. Justice Hughes said at pp. 567 and 568:

> " There is no absolute freedom to do as one wills or to contract as one chooses. The guaranty of liberty does not withdraw from legislative supervision that wide department of activity which consists of the making of contracts, or deny to government the power to provide restrictive safeguards. Liberty implies the absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community.
>
> It is subject also in the field of state action to the essential authority of government to maintain peace and security and to enact laws for the promotion of the health, safety, morals and welfare of those subject to its jurisdiction."

In Holden v. Hardy (169 U. S. 366), Mr. Justice Brown said, page 397:

> " But the fact that both parties are of full age and competent to contract does not necessarily deprive the State of

the power to interfere where the parties do not stand on an equality or where the public health demands that one party to the contract shall be protected against himself. 'The State still retains an interest in his welfare, however reckless he may be. The whole is no greater than the sum of all the parts, and when the individual health, safety and welfare are sacrificed or neglected the State must suffer.'"

In People ex rel. Nechamcus v. Warden (144 N. Y. 529), Gray, J., said at page 535:

"The police power extends to the protection of persons and of property within the state. In order to secure that protection, they may be subjected to restraints and burdens by legislative acts. If the act is a valid and reasonable exercise of the police power of the state, then it must be submitted to, as a measure designed for the protection of the public and to secure it against some danger, real or anticipated, from a state of things, which modifications in our social or commercial life have brought about. The natural right to life, liberty and the pursuit of happiness is not an absolute right. It must yield, whenever the concession is demanded by the welfare, health or prosperity of the state. The individual must sacrifice his particular interest or desires, if the sacrifice is a necessary one in order that organized society as a whole shall be benefited. That is a fundamental condition of the state and which, in the end, accomplishes by reaction a general good, from which the individual must also benefit."

In People v. Havnor (149 N. Y. 195), Vann, J., said at pages 203, 204:

"It is to the interest of the state to have strong, robust, healthy citizens, capable of self-support, of bearing arms, and of adding to the resources of the country." * * * "Independent of any question relating to morals or religion, the physical welfare of the citizen is a subject of such primary importance to the state and has such a direct relation to the

general good, as to make laws tending to promote that object proper under the police power, and hence valid under the Constitution 'which presupposes its existence, and is to be construed with reference to that fact.'"

The report of the Factory Investigating Commission reflects the "common belief" in this State that night work of women in factories is injurious to health and morals and should be prohibited.

In Matter of Viemeister (179 N. Y. 235), Vann, J., after remarking that a "common belief like common knowledge, does not require evidence to establish its existence," but is a matter of which the court can take judicial notice, said at page 241:

> "The fact that the belief is not universal is not controlling, for there is scarcely any belief that is accepted by every one. The possibility that the belief may be wrong, and that science may yet show it to be wrong, is not conclusive, for the legislature has the right to pass laws which, according to the common belief of the people are adapted to prevent the spread of contagious diseases. In a free country where the government is by the people through their chosen representatives, practical legislation admits of no other standard of action, for what the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does in fact or not. Any other basis would conflict with the spirit of the Constitution and would sanction measures opposed to a republican form of government.
>
> "While we do not decide and cannot decide that vaccination is a preventive of small pox, we take judicial notice of the fact that this is the common belief of the people of the state, and with this fact as a foundation, we hold that the statute in question is a health law, enacted in a reasonable and proper exercise of the police power."

Quoted with approval by Mr. Justice Harlan, in Jacobson v. Massachusetts, 197 U. S. 11, 35.

III

FIXING A CLOSING AND OPENING HOUR IS A REASONABLE MEANS OF SECURING THE EFFECTIVE PROHIBITION OF CONTINUOUS NIGHT SHIFTS AND PROLONGED OVERTIME OF WOMEN IN FACTORIES.

We have shown that there is a direct connection between the protection of health and the prohibition of the continuous all night shift of women in factories, or of prolonged overtime, in which a woman in violation of law, works more than ten hours in the day time and extends her work until late at night. In People v. Williams (189 N. Y. 131), Gray, J., said at pages 134 and 135:

> "If the inhibition of the section in question had been framed to prevent the ten hours of work from being performed at night, or to prolong them beyond nine o'clock in the evening, it might, more readily, be appreciated that the health of women was the matter of legislative concern. That is not the effect, nor the sense, of the provision of the section, with which, alone, we are dealing. It was not the case upon which this defendant was convicted.

In the case now being considered *the defendant was convicted for employing a woman on a continuous night shift.* From the language of the court above quoted, it might well be inferred that even in the Williams case the court believed that a prohibition of continuous all night work of women, would have a reasonable connection with the protection of health and would be within the police power of the State.

The court, however, went on to say at page 135:

> "If this enactment is to be sustained, then an adult woman, although a citizen and entitled as such to all the rights of citizenship, under our laws, may not be employed, nor contract to work in any factory for any period of time no matter how short, if it is within the prohibited hours; and this, too, without any regard to the healthfulness of the employment."

The court in effect held that the fixing of a closing and an opening hour — the prohibition of employment after ten o'clock in the evening or before six o'clock in the morning, was not a reasonable means of attaining the legitimate objects sought to be accomplished by the law, that is, the prevention of the continuous all night shift and prolonged overtime.

We contend that the fixing of such closing and opening hours is reasonable and necessary to secure the enforcement of the legislative intent:

1st. In order that the prohibition against the continuous all night shift of women in factories might be effectively enforced.

2nd. In order that the law limiting the hours of labor of women to ten hours a day might be more effectively enforced and overtime work of women in violation of that law prevented in any event from being extended until late at night.

Booth v. Illinois, 184 U. S. 425.
Otis v. Parker, 187 U. S. 606.
N. Y. ex rel. Silz v. Hesterberg, 184 N. Y. 126; affirmed in 211 U. S. 31.
Purity Extract and T. Co. v. Lynch, 226 U. S. 192.
Riley v. Commonwealth of Massachusetts, 232 U. S. 671 (1914).

In Booth v. Illinois (184 U. S. 425), the defendant was convicted for a violation of the statute of the State of Illinois which made it a criminal offense to give an option to buy grain at a future time. The defendant contended that the statute as interpreted by the highest court of the State was "not directed against gambling contracts relating to the selling or buying of grain or other commodities, but against mere options to sell or buy at a future time without any settlement between the parties upon the basis of differences and therefore involving no element of gambling."

The court sustained the judgment of conviction and Mr. Justice Harlan said, at page 429:

> "If, looking at all the circumstances that attend, or which may ordinarily attend, the pursuit of a particular calling, the

State thinks that certain admitted evils cannot be successfully reached unless that calling be actually prohibited, the courts cannot interfere, unless, looking through mere forms and at the substance of the matter, they can say that the statute enacted professedly to protect the public morals has no real or substantial relation to that object, but is a clear, unmistakable infringement of rights secured by the fundamental law (citing cases).

"We cannot say from any facts judicially known to the court, or from the evidence in this case, that the prohibition of options to sell grain at a future time has, in itself, no reasonable relation to the suppression of gambling grain contracts in respect of which the parties contemplate only a settlement on the basis of differences in the contract and market prices * * *. It must be assumed that the Legislature was of opinion that an effectual mode to suppress gambling grain contracts was to declare illegal all options to sell or buy at a future time. The court is unable to say that the means employed were not appropriate to the end sought to be obtained and which it was competent for the State to accomplish. * * *

The statute here involved may be unwise. But an unwise enactment is not necessarily for that reason invalid. * * * The courts have nothing to do with the mere policy of legislation" (p. 431).

Otis v. Parker (187 U. S. 606), dealt with a provision of the Constitution of California which provided that all contracts for the sale of shares of the capital stock of any corporation on margin or to be delivered at a future day should be void. The objection urged against the provision in its literal sense was "that this prohibition of all sales on margin bears no reasonable relation to the evil sought to be cured."

The court, however, upheld the provision, Mr. Justice Holmes saying, at page 609:

"Even if the provision before us should seem to us not to have been justified by the circumstances locally existing in California at the time when it was passed, it is shown by its

adoption to have expressed a deep-seated conviction on the part of the people concerned as to what that policy required. Such a deep-seated conviction is entitled to great respect. If the State thinks that an admitted evil cannot be prevented except by prohibiting a calling or transaction not itself necessarily objectionable the courts cannot interfere, unless, in looking at the substance of the matter they can see it is a clear, unmistakable infringement of rights secured by the fundamental law (citing cases).

No court would declare a usury law unconstitutional, even if every member of it believed that Jeremy Bentham had said the last word on that subject and had shown for all time that such laws did more harm than good."

In N. Y. ex rel. Silz v. Hesterberg (184 N. Y. 126), the defendant was convicted for violating the provisions of the Forest, Fish and Game Law of New York, prohibiting the possession of certain game during the closed season, the statute also covering game that came from without the State. The defendant was prosecuted for having in his possession during the closed season in New York some plover and grouse which had been lawfully taken and killed abroad during the open season there and imported by him. It was conceded that these game birds were varieties different from those found in this State and could readily be distinguished from the plover and grouse found here. It was contended that while the protection of the game supply of the State was within the police power, the act in question was an unlawful and arbitrary exercise of that power because protection of the game of this State did not require a penalty to be imposed for the possession out of season of imported birds of the kind held by the defendant. The court sustained the conviction, Cullen, Ch. J., saying, at page 131:

"To the argument that the exclusion of foreign game in no way tends to the preservation of domestic game, it is sufficient to say that substantially the uniform belief of legislatures and people is to the contrary, and that both in England and many of the States in this country legislation prohibiting the possession of foreign game during the close season has

been upheld as being necessary to the protection of domestic game, on the ground that without such inhibition or restriction any law for the protection of domestic game could be successfully evaded * * * (citing cases)."

This decision was affirmed by the United States Supreme Court (211 U. S. 31), Mr. Justice Day saying at page 40:

"It is insisted that a method of inspection can be established which will distinguish the imported game from that of the domestic variety and prevent confusion in its handling and selling. That such game can be distinguished from domestic game has been disclosed in the record in this case, and it may be that such inspection laws would be all that would be required for the protection of domestic game. But, subject to constitutional limitations, the legislature of the State is authorized to pass measures for the protection of the people of the State in the exercise of the police power, and is itself the judge of the necessity or expediency of the means adopted. In order to protect local game during the closed season it has been found expedient to make possession of all such game during that time, whether taken within or without the State, a misdemeanor. In other States of the Union such laws have been deemed essential, and have been sustained by the Courts. * * * (citing cases). It has been provided that the possession of certain kinds of game during the closed season shall be prohibited, owing to the possibility that dealers in game may sell birds of the domestic kind under the claim that they were taken in another State or county."

In Purity Company v. Lynch (226 U. S.) 192, Mr. Justice Hughes said, at page 201:

"That the state, in the exercise of its police power, may prohibit the selling of intoxicating liquors is undoubted * * * (citing cases). *It is also well established that, when a state exerting its recognized authority, undertakes to suppress what it is free to regard as a public evil, it may*

adopt such measures having reasonable relation to that end as it may deem necessary in order to make its action effective. It does not follow that because a transaction separately considered is innocuous it may not be included in a prohibition, the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government * * * (citing cases). With the wisdom of the exercise of that judgment the court has no concern; and unless it clearly appears that the enactment has no substantial relation to a proper purpose, it cannot be said that the limit of legislative power has been transcended. To hold otherwise would be to substitute judicial opinion and expediency for the will of the legislature, a notion foreign to our constitutional system." (Italics ours).

And at page 204:

"It was competent for the legislature of Mississippi to recognize the difficulties besetting the administration of laws aimed at the prevention of traffic in intoxicants. It prohibited, among other things, the sale of 'malt liquors.' In thus dealing with a class of beverages which, in general, are regarded as intoxicating, it was not bound to resort to a discriminating with respect to ingredients and processes of manufacture which, in the endeavor to eliminate innocuous beverages from the condemnation would facilitate subterfuges and frauds and fetter the enforcement of the law. A contrary conclusion, logically pressed would save the nominal power while preventing its effective exercise. The statute establishes its own category. The question in this court is whether the legislature had power to establish it. *The existence of this power, as the authorities we have cited abundantly demonstrate, is not to be denied simply because some innocent articles or transactions may be found within the prescribed class* * * *.

"That the opinion is extensively held that a general prohibition of the sale of malt liquors, whether intoxicating or not, is a necessary means to the suppression of trade in intoxicants, sufficiently appears from the legislation of other states

and the decision of the courts in its construction * * * (citing cases). We cannot say that there is no basis for this widespread conviction." (Italics ours.)

In Riley v. Massachusetts (232 U. S. 271, decided 1914), the defendant was convicted for violating a statute of Massachusetts, providing that no child or woman be employed in a manufacturing establishment more than ten hours a day (except to make a shorter day's work of one day of the week), or more than fifty-six hours a week, and requiring the employer to post a notice stating the number of hours of work required by women and child workers on each day of the week, the hours of commencing and stopping work, and when the time allowed for meals begins and ends. The statute prohibited and made a criminal offense the employment of women and children at a time other than stated in the notice. The defendant was convicted for employing two women at five minutes of one in the afternoon in a room where a notice was posted, in which was stated that the time of commencing work was 6:50 A. M., of stopping work, 6 P. M., and the time allowed for dinner began at 12 M. and ended at 1 P. M. It was urged that the section in question was unconstitutional because it not only prohibited the employment of women more than 10 hours a day but provided that the employment of a woman at a time other than stated in the printed notice required by the section, was to be deemed a violation of the section regardless of the number of hours the woman actually worked. The United States Supreme Court sustained the conviction, Mr. Justice McKenna saying, at page 671:

"The provision is arbitrary and unreasonable, it is insisted, in that it requires the employer to post a notice in a room in which women and minors are permanently employed in laboring only six hours a day, and makes it a crime if such person is allowed to work for five minutes at a time other than as stated in the notice. But if we might imagine that an employer would so enlarge the restrictions of the statute or be charged with violating it if he did, we yet must remember that, *as it was competent for the state to restrict the hours of employment, it is also competent for the state to provide*

administrative means against evasion of the restriction (citing cases).

Neither the wisdom nor the legality of such means can be judged by extreme instances of their operation. The provision of § 48 cannot be pronounced arbitrary." (Italics ours.)

The principle of law established by these cases is clearly applicable to the case at bar. If a closing hour and an opening hour are not fixed by the law, it could not be enforced through ordinary methods of inspection to which the State would be justified in resorting. To prove a violation, that is to prove that a woman was employed continuously at night, a factory inspector would have to be stationed in the establishment all night long or else a prosecution would have to be instituted on mere suspicion, which would be improper.

The presence of a woman in a factory at three o'clock in the morning, for instance, would not be sufficient to secure a conviction. Reliance cannot he had on the woman worker who is either compelled to work in violation of law by her employer, or who desires to do so to accomplish her own ends. Experience with the fifty-four hour law for women shows how difficult it is of enforcement. To secure a conviction, an inspector virtually has to be stationed in the factory to ascertain when the woman comes to work and at what time she leaves. It is impossible for the State to resort to this method of inspection except in unusual cases, and the State has to rely on complaint or on the voluntary co-operation of the workers, which it has been shown is most difficult to secure. It is true that work at night at ten minutes past ten, or from ten to twelve, might not injure or affect the health of women workers. But those are not the cases which this law was designed to meet. These cases are hypothetical, invented for the purpose of argument. They do not in fact occur. Those are the transactions which, as Mr. Justice Hughes has said, " separately considered " are " innocuous," but which must be " included in a prohibition the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government."

There are no such cases in actual practice. In the case at bar the woman worked all night long, and that is the right for which the appellant in this case is contending. Anything else is sham and pretence, and this Court should not close its eyes to what the actual facts are. A law should not be condemned because it is contended that as a theoretical proposition in isolated cases, it might lead to absurd results. Such a conclusion would discard almost every beneficent health law that we have on the statute books today.

> " 'All laws,' this court has said, 'should receive a sensible constitution. General terms should be so limited in their applicaion as not to lead to injustice, oppression, or absurd consequence. * * * The reason of the law in such cases should prevail over its letter.' "
>
> Jacobson v. Massachusetts, 197 U. S. 11, 39.

As in Purity Company v. Lynch (226 U. S. 192, 201), so in this case, we can say that the opinion is extensively held that the fixing of a closing and opening hour is a necessary means for the suppression of the continuous night shift and prolonged overtime of women in factories. This sufficiently appears from the legislation of other states and countries. There are seven states in this country which have prohibited night work of women. In all but one, a closing and an opening hour has been fixed in the law. In that one case, only the closing hour was fixed, and the result is that the law is being ignored. In every European country that has legislated on this subject and prohibited night work of women in factories, there is a closing hour and an opening hour specified in the law, so that it might be effectively enforced. Whether the closing hour was properly fixed, whether it should have been fixed at eleven or twelve o'clock instead of ten o'clock, or whether the opening hour should have been fixed at four or five o'clock instead of six o'clock in the morning are matters that are within the discretion of the Legislature. With the wisdom of the selection of the hours the court should have no concern.

The act under consideration is a most reasonable one. The Commission in its report said:

"The proposed law is a moderate measure. It is most fair and reasonable to all concerned. It provides that women employed in factories shall have a period of rest at night between 10 P. M. and 6 A. M. It thus allows a stretch of 16 hours — from 6 o'clock in the morning until 10 o'clock at night — during which the 10 hours of daily labor permissible by law may be performed. Early evening work is not curtailed, but the excessive overtime, extending, as has been shown, until long after 10 P. M. is confined to more reasonable limits. The dangerous all night shift is prohibited.

No legitimate industry will suffer from this measure, urgently needed to protect the health of the workers and to assist the factory inspectors in the difficult task of enforcement.

(Second Report, New York State Factory Investigating Commission, Vol. I, page 212.)

It is one thing for the court to disapprove of the means taken by the Legislature to prevent its will from being thwarted and another to put it outside the pale of rational entertainment.

In Bohmer v. Haffen (161 N. Y. 390), Parker, C. J., said at page 399:

"Whether the legislation was wise is not for us to consider. The motive actuating and the inducements held out to the legislature are not the subject of inquiry by the courts, which are bound to assume that the law-making body acted with a desire to promote the public good. Its enactments must stand, provided always that they do not contravene the Constitution, and the test of constitutionality is always one of power — nothing else. But in applying the test the courts must bear in mind that it is their duty to give the force of law to an act of the legislature whenever it can be fairly so construed and applied as to avoid conflict with the Constitution."

Professor James B. Thayer has summed up the proposition in a few words when he says (American Doctrine of Constitutional Law, 7 Harvard Law Review, 129, 148):

"To ask 'should we have found the same verdict' is surely not the same thing as to ask whether there is room for a reasonable difference of opinion. * * * The judicial function is merely that of fixing the outside border of reasonable legislative action, the boundary beyond which the * * * police power, and legislative power in general cannot go without violating the prohibitions of the constitution or crossing the line of its grants."

IV.

THE STATUTE UNDER CONSIDERATION DOES NOT DENY TO WOMEN THE EQUAL PROTECTION OF THE LAW.

Legislation limiting the hours of labor of women generally has been sustained as constitutional by the same Court which held such legislation invalid as to men.

Lochner v. N. Y. 198 U. S. 45 (1905).
Muller v. Oregon, 208 U. S. 412 (1908).
affirmed in Hawley v. Walker, 232 U. S. 718 (1914).

The appellant, under Point 5 in his brief, says, at page 45:

> " Under modern conditions, the status of adult women and their rights and privileges in industrial occupations, are identical with those of men."

The Supreme Court of the United States in 1908 showed the fallacy of that proposition in Muller v. Oregon, 208 U. S. 412, affirmed as late as February, 1914, in Hawley v. Walker, 232 U. S. 718. No better reply can be made to the appellant's contention than to quote the words of Mr. Justice Brewer, speaking for the entire court in the Oregon case who says at pages 419, 422:

> " We held in Lochner v. New York, 198 U. S., 45, that a law providing that no laborer shall be required or permitted to work in bakeries more than sixty hours in a week or ten hours in a day was not as to men a legitimate exercise of the police power of the State, but an unreasonable, unnecessary, and arbitrary interference with the right and leberty of the individual to contract in relation to his labor, and as such was in conflict with, and void under, the federal constitution. That decision is invoked by plaintiff in error as decisive of the question before us. But this assumes that the difference between the sexes does not justify a different rule respecting a restriction of the hours of labor (p. 419).
>
> " Though limitations upon personal and contractual rights may be removed by legislation, there is that in her disposition and habits of life which will operate against a full assertion

of those rights. She will still be where some legislation to protect her seems necessary to secure a real equality of right. Doubtless there are individual exceptions, and there are many respects in which she has an advantage over him; but looking at it from the viewpoint of the effort to maintain an independent position in life, she is not upon an equality. Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained. It is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him. Even though all restrictions on political, personal, and contractual rights were taken away, and she stood, so far as statutes are concerned, upon an absolutely equal plane with him, it would still be true that she is so constituted that she will rest upon and look to him for protection; that her physical structure and a proper discharge of her maternal functions — having in view not merely her own health but the well-being of the race — justify legislation to protect her from the greed as well as the passion of man. The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words cannot make this plainer. The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her" (p. 422).

This case upheld the right of the State to limit the working hours of women to not more than 10 hours in any one day, *without regard to the healthfulness of the particular employment in which the women were engaged.*

V.

THE DECISION IN THE WILLIAMS CASE IS NOT DECISIVE OF THE CASE AT BAR

A.— THE PRESENT STATUTE DIFFERS IN IMPORTANT RESPECTS FROM THAT UNDER CONSIDERATION IN THE WILLIAMS CASE.

In the Williams case, GRAY, J., said at page 134:

> "I find nothing in the language of the section which suggests the purpose of promoting health, except as it might be inferred that for a woman to work during the forbidden hours of night would be unhealthful."

In the present section the legislative intent was expressed in the title of the act, and in the very body of the section itself, the law reading:

> "*In order to protect the health and morals of women employed in factories by providing an adequate period of rest a night,* no woman shall be employed or permitted to work in any factory before six o'clock in the morning or after ten o'clock in the evening of any day."

The Legislature, when for the second time, it enacted the law prohibiting night work of women in factories desired to pass a measure to protect health and morals. That is no longer open to doubt, and while not conclusive upon the Court, constitutes a very important distinction between the two cases.

B.— IMPORTANT FACTS OF COMMON KNOWLEDGE RELATING TO THE EVILS OF NIGHT WORK WERE NOT BROUGHT TO THE ATTENTION OF THE COURT IN THE WILLIAMS CASE.

The Court is asked in this case to find a reasonable relationship between health and morals and the prohibition of night work by women. As a basis for such finding, there is presented to the Court for consideration the following:

1. The report of the Factory Investigating Commission, an official legislative commission, based upon an investigation which presents facts and findings that leave little room for doubt concerning the evils of night work by women in factories.

2. The legislation in various States of this Union and in practically every country in Europe prohibiting night work for women.

Seven months before the Williams case was decided an international convention was entered into by the leading European countries which recognized the evils of night work for women in factories and recommended its prohibition. It does not appear, however, that this fact was brought to the attention of the Court in the Williams case.

The international agreement has been adopted by practically all European countries, by many since the decision in the Williams case.

3. " Facts of common knowledge " concerning the evils of night work of women have been collected in a brief submitted as part of a brief filed by the District Attorney in this case. These consist of reports and findings of investigating commissions and opinions of experts and others who have given consideration to the subject.

The concensus of opinion is that night work by women is one of the greatest evils in industry, and it should be prohibited in the interests of the health of the women workers affected and of posterity.

None of the foregoing was brought to the attention of the Court in the Williams case. The Court today may take judicial notice of all this new evidence. It may well be argued that if these facts and authorities had been brought to the attention of the Court at the time the Williams case was passed upon, and if at that time it had before it the report of an official legislative commission, established by law to inquire into industrial conditions in this State, recommending as the result of its investigation the enactment of such a law, the Court would have reached an entirely different conclusion as to the evils of night work by women in factories.

C.— THE NECESSITY OF A FIXED CLOSING AND OPENING HOUR TO SECURE A PROPER ENFORCEMENT OF THE PURPOSES OF THE BILL, THAT IS TO PROHIBIT THE CONTINUOUS NIGHT SHIFT AND PROLONGED OVERTIME BY WOMEN IN FACTORIES, WAS NOT BROUGHT TO THE ATTENTION OF THE COURT IN THE WILLIAMS CASE.

Under the authorities cited in Point III, particularly N. Y. v. Hesterberg, Purity Extract Co. v. Lynch and Riley v. Massachusetts, there can be little doubt as to the power of the Legislature to adopt such means to prevent its will from being thwarted.

We have shown that not only is a fixed closing and opening hour a reasonable means of securing an enforcement of a statute prohibiting night work, but that it is the only means. This fact has been recognized in every law on the subject in this country and in Europe with but one unimportant exception. It does not appear that this important point was brought to the attention of the Court in the Williams case.

D.— CHANGE IN THE TREND OF JUDICIAL OPINION SINCE THE WILLIAMS CASE.

The decision in People v. Williams was the first and remains the only decision of any superior court in the United States to declare unconstitutional an act prohibiting the night work of women in factories.

The decision in Muller v. Oregon (208 U. S. 412), it is true, concerned solely an act limiting the number of hours of labor to be performed by a woman in one day. The decision in People v. Williams dealt with a statute prohibiting employment of women before and after certain specified hours. But the opinion in the Muller case lays down certain broad considerations of public health and welfare which apply with equal justice to all limitations upon women's labor, be they by night or by day. In rendering its decision in the Williams case, this Court did not have Muller v. Oregon as a precedent. On the contrary, the Court followed closely the reasoning of a previous decision of the United States Supreme Court in Lochner v. New York, decided in 1905 (198 U. S. 145).

In this well-known case the Federal Supreme Court held invalid the New York bake shop law, which limited the employment of men in bakeries to 60 hours in one week. The Court declared that law to be an unwarranted interference with the freedom of contract guaranteed by the federal constitution. That reasoning was relied upon by this Court in People v. Williams.

> " I need only refer," said Gray, J. (p. 136), " to the recent case of Lochner v. State of New York, 198 U. S. 145, where the Supreme Court of the United States had before it a case arising in this state under a provision of the Labor Law, which restricted the hours of labor for the employees of bakeries. The argument there was, and it had prevailed in this court, that the legislation was valid as a health law under the police power; but the Federal Supreme Court refused to recognize the force of the argument and held, if such legislation could be justified, that the constitutional protection against interference with the liberty of person and the freedom of contract was a visionary thing. It was held that bakers ' are in no sense wards of the state ' * * *
>
> " So I think in this case that we should say an adult female is in no sense a ward of the state."

But since the decision of the Lochner case, upon which Judge Gray's argument was based, the current of judicial opinion has flowed in another channel, and in 1908 the United States Supreme Court, taking cognizance of the " world's experience on which the legislation limiting the women's hours of labor is based," said in the case of Muller v. Oregon, cited above:

> " The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her " (p. 422).

In 1914 the same Court reiterated this opinion in Hawley v. Walker, 232 U. S. 718. This, then, is the decision of the highest tribunal of the country concerning the relation between the employment of women and the public welfare.

It is significant also that since the Williams case was decided, the Supreme Courts of five States, Illinois, Michigan, Ohio, Washington and California, have upheld laws limiting hours of labor for women. Ritchie v. Wayman, 244 Ill. 509; People v. Eldering, 98 N. E. Rep. 982; Withey v. Bloem, 163 Mich. 419; Ex parte Hawley, 98 N. E. Rep. 1126; State v. Somerville, 122 Pac. Rep. 324; Ex parte Miller, 124 Pac. Rep. 427. Indeed, the Supreme Court of Illinois, in Ritchie v. Wayman, decided in 1910, completely reversed a prior decision overthrowing the validity of an Illinois eight-hour law. The Court, in sustaining a new ten-hour law, was not deterred, as the same Court had been fourteen years before (Ritchie v. People, 155 Ill. 98, decided 1895) by the theory of freedom of contract.

All that body of "general knowledge" concerning the ill effects of the overwork of women, of which the Federal Supreme Court had taken judicial cognizance, was again admitted to carry its due weight, the Illinois Court remarking:

> "What we know as men we cannot profess to be ignorant of as judges."

E. CHANGE IN SOCIAL AND ECONOMIC CONDITIONS.

The past two decades has witnessed a marked change in social and economic needs. There is a greater strain in industry; speeding up and high tension, due to complicated machinery and subdivision of work, particularly in industries in which women are employed, now exist as never before.

As is natural it has taken time for the people and for the Courts to take cognizance of this changed condition of affairs and of the necessary steps needed to guard against these evil conditions and the dangers to the State that result from them. With the appreciation of these new needs a changed attitude on the part of people and of the Courts on matters of social reform and improvement has now come, as it was bound to in time.

The rights of society as a whole and the necessity for its protection and preservation are now regarded as of paramount importance. This new conception finds reflection in recent decisions of the Courts of every State in matters affecting the police power.

The doctrine of *stare decisis* should not be applied to cases affecting the police power, for those cases involve conclusions of fact as to reasonableness rather than principles of law. The limits of the police power are indefinite and change with varying conditions. In Noble State Bank v. Haskell, 219 U. S. 104, Mr. Justice Holmes said, at page 111:

> "It may be said in a general way that the police power extends to all the great public needs. Camfield v. United States, 167 U. S. 518; 42 L. ed., 260; 17 Sup. Ct. Rep. 864. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare."

The decision in the Williams case is therefore in no way decisive of the case at bar.

VI

AN ACT PASSED BY THE LEGISLATURE HAS EVERY PRESUMPTION IN ITS FAVOR AND SHOULD NOT BE DECLARED INVALID BY THE COURTS UNLESS ITS REPUGNANCY TO THE CONSTITUTION IS CLEAR BEYOND ALL REASONABLE DOUBT.

Ogden v. Saunders, 12 Wheat. (U. S.) 212.
Sinking Fund Cases, 99 U. S. 700.
Jacobson v. Massachusetts, 197 U. S. 11.
Lochner v. New York, 198 U. S. 45.
C., B. & Q. R. R. Co. v. McGuire, 219 U. S. 549.
People v. Supervisors, 17 N. Y. 235.
People ex rel. Kemmler v. Durston, 119 N. Y. 569.
People ex rel. Nechamcus v. Warden, 144 N. Y. 529.

These authorities clearly establish the proposition that it is for the Legislature to decide if a particular condition is injurious to the public health, morals and welfare, and to determine by what means such condition shall be remedied or regulated. The Court has power to hold such action invalid only when it is palpable and clear beyond doubt, that the condition or means adopted to remedy it do not tend to affect the public health, morals or welfare.

In Ogden v. Saunders, 12 Wheat. 212, Mr. Justice Washington, after remarking that the question was a doubtful one said, at page 270:

> "* * * If I could base my opinion in favor of the constitutionality of the law * * * on no other ground than this doubt, so felt and acknowledged, that alone would in my estimation, be a satisfactory vindication of it. It is but a decent respect due to the wisdom, integrity and patriotism of the legislative body by which any law is passed, to presume in favor of its validity until its violation of the constitution is proved beyond all reasonable doubt."

In the Sinking Fund Cases, 99 U. S. 700, Mr. Chief Justice Waite said at page 718:

> "* * * This declaration (that an Act of Congress is unconstitutional) should never be made except in a clear case. Every possible presumption is in favor of the validity of a statute and this continues until the contrary is shown beyond a rational doubt."

In Jacobson v. Massachusetts, 197 U. S. 11, Mr. Justice Harlan said, at page 31:

> "Upon what sound principles as to the relations existing between the different departments of government can the court review this action of the legislature? If there is any such power in the judiciary to review legislative action in respect of a matter affecting the general welfare, it can only be when that which the legislature has done comes within the rule that if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the constitution."

In Lochner v. New York, 198 U. S. 45, Mr. Justice Harlan, in his dissenting opinion, concurred in by Justices White and Day, at page 68, said:

> "Upon this point there is no room for dispute; for, the rule is universal, that a legislative enactment, Federal or state is never to be disregarded or held invalid unless it be, beyond question, plainly and palpably in excess of legislative power * * *."
>
> "If there be doubt as to the validity of the statute, that doubt must therefore be resolved in favor of its validity, and the courts must keep their hands off, leaving the legislature to meet the responsibility for unwise legislation. If the end which the legislature seeks to accomplish be one to which its power extends, and if the means employed to that

end, although not the wisest or best, are yet not plainly or palpably unauthorized by law, then the court cannot interfere. In other words when the validity of a statute is questioned, the burden of proof — so to speak, is upon those who assert it to be unconstitutional."

In C., B. & Q. R. R. Co. v. McGuire, 219 U. S. 549, Mr. Justice Hughes said at page 569:

"The principle involved in these decisions is that where the legislative action is arbitrary and has no reasonable relation to a purpose which it is competent for government to effect, the legislature transcends the limits of its power in interfering with liberty of contract; but where there is reasonable relation to an object within the governmental authority, the exercise of the legislative discretion is not subject to judicial review. The scope of judicial inquiry in deciding the question of power is not to be confused with the scope of legislative considerations in dealing with the matter of policy. Whether the enactment is wise or unwise, whether it is best on sound economic theory, whether it is the best means to achieve the desired results, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner, are matters for the judgment of the legislature and the earnest conflict of serious opinion does not suffice to bring them within the range of judicial cognizance."

In People v. The Supervisors of Orange, 17 N. Y. 235, Harris, J., said at page 241:

"Before proceeding to annul by judicial sentence what has been enacted by the law making power, it should clearly appear that the act cannot be supported by any reasonable intendment or allowable presumption."

In People ex rel. Kemmler v. Durston (119 N. Y. 569), O'Brien, J., said at page 577:

"Every act of the Legislature must be presumed to be in harmony with the fundamental law until the contrary is

clearly made to appear (Metropolitan Board of Excise v. Barrie, 34 N. Y. 666, 668; People ex rel. v. Briggs, 50 id. 553, 558; People v. Home Ins. Co., 92 id. 328, 344; People ex rel. v. Albertson, 55 id. 50, 54; People v. Gillson, 109 id. 389, 397; People v. King, 110 id. 418).

In People ex rel. Nechamcus v. Warden (144 N. Y. 529), Gray, J., said at page 536:

"In the Gillson case it was observed by Judge Peckham that if legislation is calculated, intended, convenient or appropriate to accomplish the good of protecting the public health and of serving the public comfort and safety, the exercise of the legislative discretion is not the subject of judicial review; but those measures must have some relation to those ends. To this unassailable proposition I will add the remark, that the courts should always assume that the legislature intended by its enactment to promote those ends and if the act admits of two constructions, that should be given to it which sustains it and makes it applicable in furtherance of the public interests."

VII

THE DECISION OF THE APPELLATE DIVISION SHOULD BE AFFIRMED, AND THE STATUTE PROHIBITING NIGHT WORK OF WOMEN IN FACTORIES, HELD TO BE A VALID EXERCISE OF THE POLICE POWER.

Night work of women in factories is injurious to the health and morals of women workers and opposed to the welfare and best interests of the people of the state generally. That is conclusively established by the report of the Factory Investigating Commission and by the opinions of other commissions and of experts on the subject, which are before this Court. A law prohibiting such night work is a health measure and is within the police power of the State. Such night work is prohibited in seven States of this country and in practically every European country.

The fixing of a closing and an opening hour is a reasonable means to effectuate the purposes of the act, that is the prevention of the continuous all-night shift and prolonged overtime of women in factories. Opening and closing hours, in many cases more drastic than those in the statute under consideration, have been fixed in every law in this country (with one unimportant exception) and in Europe, on the subject. The present statute is reasonable in its application and has met with general approval. It does not deny to women the equal protection of the laws. That is held by the United States Supreme Court in the cases of Muller v. Oregon and Hawley v. Walker, from which we have quoted at length.

We have shown that the decision of this Court in the case of People v. Williams is not decisive of the case at bar. The two statutes differ in important respects. Essential facts concerning the evils of night work now submitted to this Court, were not before the Court when the Williams case was decided. The action of the International Convention of 1906 denouncing night work of women in factories as one of the greatest industrial evils and recommending its prohibition, was not before that Court. That Court did not have the benefit of an investigation of the subject

such as is presented in this case by the Factory Investigating Commission.

The trend of judicial opinion has changed since the decision in the Williams case. Then "People v. Lochner" was the guide. To-day, it is "Muller v. Oregon and Hawley v. Walker." Prohibition of night work of women in factories is demanded by the change which has taken place in our industrial system. Social and economic conditions have changed in recent years. The strain of industry is greater than ever and this is particularly true in occupations where large numbers of women are employed. The Williams case should not be permitted to stand in the way of progress and of an improvement in conditions now shown to be essential.

For the second time, and this time upon consideration of the facts and conditions disclosed in an official investigation, the legislature has passed a law prohibiting night work of women in factories. To sustain this measure will maintain protection of the health and morals of women workers, preserve their vitality as wives and mothers of the race and make for the welfare of the community and the benefit of humanity in general.

Respectfully submitted,

ABRAM I. ELKUS,
ROBERT F. WAGNER,
BERNARD L. SHIENTAG,

Counsel for the New York State Factory Investigating Commission as *amicus curiae*,
by permission of this Court.

February, 1915.

2. DECISION OF THE COURT OF APPEALS SUSTAINING THE CONSTITUTIONALITY OF THE LAW PROHIBITING NIGHT WORK OF WOMEN IN FACTORIES

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,
against
CHARLES SCHWEINLER PRESS, a Corporation,
Appellant.

(Decided March 26, 1915)

This is an appeal from an order of the First Appellate Division which reversed an order of the Court of Special Sessions of the city of New York, granting a motion in arrest of judgment after the appellant had been convicted of violating section 93b of the Labor Law of this State (Cons. Laws, ch. 31, as amd. by L. 1913, ch. 83), and denying said motion and remanding the case to said Court of Special Sessions, there to be proceeded with according to law.

The statute for violation of which the appellant was convicted reads as follows:

> "§ 93-b. Period of rest at night for women. In order to protect the health and morals of females employed in factories by providing an adequate period of rest at night no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day."

Alfred E. Ommen for appellant.

Walter J. Carlin for Association of Ice Cream Manufacturers, intervenor.

Charles A. Perkins, District Attorney (William A. De Ford of counsel), for respondent.

Egburt E. Woodbury, Attorney-General (Merton E. Lewis, of counsel), in behalf of Labor Law.

Abram I. Elkus, Robert F. Wagner and Bernard L. Shientag for New York State Factory Investigating Commission as *amicus curiæ*.

HISCOCK, J. This appeal presents for consideration a question of the constitutionality of certain industrial legislation, so called.

It is undisputed that the appellant caused or permitted a married woman to work in a factory operated by it between the hours of ten o'clock in the evening and six o'clock in the morning, and thereby violated the provisions of the act above quoted, and became subject to the punishment duly prescribed for such violation. It challenges, however, the legality of its conviction for the reason as claimed that said act unduly and unjustifiably interferes with the right of an adult woman to contract for her own labor, and thus violates various provisions of the Constitution both of the State and of the United States, which in effect provide that no one shall be deprived of life, liberty or property except by due process of law, and that no unjust discrimination shall be made between different classes of citizens by denial of the equal protection of law.

The answer to this challenge is that night work in factories as contrasted with day labor substantially affects and impairs the physical condition of women and prevents them from discharging in a healthful and satisfactory manner the peculiar functions which have been imposed upon them by nature, and that, therefore, it was within the power of the legislature to enact the statute as a police regulation tending to protect the well-being of a large class of citizens and promote the public welfare.

We are, therefore, presented with the issue whether it can be said that night work by women in factories is so generally and substantially injurious to their health that the legislature was justified by public considerations in preventing the evil by forbidding the cause. In the determination of this question it will be well first to summarize some of the facts and reasons which induced the legislation, and, second, to test the sufficiency of these as a basis for the statute by certain principles of law applicable to such a case.

There are certain fundamental facts involved in the decision of the question which are beyond any dispute. The statute forbids night work simply in factories. We know as a matter of common observation that such labor is generally performed in-doors and that under average conditions and surroundings existing in factories, even when performed in the daytime, it is ordinarily arduous and exacting.

Impairment caused by exhaustion or even ordinary weariness must be repaired by normal and refreshing sleep and rest if health and efficiency are to be preserved. The natural and common order of work and rest is that the former shall be for the most part performed during the hours of day and the latter enjoyed during the night. Habitual and continuous work by night is at variance with this order.

Protection of the health of women is a subject of special concern to the State. However confident a great number of people may be that in many spheres of activity, including that of the administration of government, woman is the full equal of man, no one doubts that as regards bodily strength and endurance she is inferior and that her health in the field of physical labor must be specially guarded by the State if it is to be preserved and if she is to continue successfully and healthfully to discharge those peculiar duties which nature has imposed upon her. This proposition is fully recognized and stated in Muller v. Oregon (208 U. S. 412, 421 where it was said: "That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race. * * * Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained."

And if any further brief evidence of the truth of the proposition were necessary it would be found in the many statutes which have been adopted in this State without question of their constitutionality particularly designed to protect and preserve the health of women when engaged in various kinds of physical labor.

Moved in part it may be by such general and underlying considerations as these, under and in accordance with two statutes adopted by our Legislature in 1911 and 1912 (Laws of 1911, chapter 501; Laws of 1912, chapter 21), there was appointed in the latter year a factory investigating commission. This commission considered this subject of night work by women in factories and in 1913 made a report to the Legislature, recommending that there be passed the law now before us prohibiting it. It reported that such prohibition was essential to protect and preserve the health and to some extent the morals of women. It stated: "The chief danger of health from night work is * * * due to the inevitable lack of sleep and sunlight. Recuperation from fatigue takes place fully only in sleep, and best, in sleep at night. Hence, night work is, in a word, against nature. When exhausting factory work fills the night, and household work most of the day, health must inevitably be sacrificed. This injury to health is all the greater, because sleep lost at night by working women is never fully made up by day. For, in the first place, sleep in the daytime is not equal in recuperative power to sleep at night. * * * Moreover, quiet and privacy for sleep by day is almost impossible to secure. Upon returning home in the middle of the night or at dawn the workers can snatch at most only a few hours' rest."

While it is impossible to review at length this report and recommendation and the foundations therefor, it may briefly and generally be stated that it was based upon and supported by quite an extensive investigation by the commission of actual factory conditions in this State where women performed night work, by many opinions of medical and other experts, and examination of other industrial investigations and legislation adopted in other jurisdictions in obedience we must assume to public opinion, forbidding such night work. It was also supported, whether expressly so stated or not, by the general considerations first above set forth. Amongst other things in the report to which special

reference may be made, it appeared that in 1906 there assembled in Switzerland representatives of fourteen European governments who signed an international convention for the prohibition of industrial work at night by women, and that prior to 1912 all of the powers represented except one had ratified the convention, and that in many cases such legislation provided for a longer period of rest at night than that recommended by the international agreement. It also appears now by the briefs submitted to us, whether that was stated in the report or not, that nine of the United States had passed legislation prohibiting such night work by women.

Thus at the time when this statute was adopted there was before the Legislature the report of a commission created by it to consider and report on this subject, based on natural laws and on actual investigation, a large volume of expert and medical opinion and a large number of statutes adopted in various jurisdictions, all of which tended to show a careful and long-continued study and examination of the subject of night work by women, and as a result of such study and examination a wide-spread belief that such work was so injurious to their health that it ought to be prohibited both for their own sakes and for the sake of the offspring whom they might bear.

We then come to the query whether such facts, evidence and information furnished a sufficient reason for action by the Legislature and justified the statute which was adopted, and I think the answer must be in the affirmative.

In the decision by the Legislature whether it should adopt such legislation, and in the determination by us whether the Legislature was justified in adopting it, it was and we are entitled to take into account the report made by the commission, such facts tending to support it as were matters of common knowledge, and the widespread and long-continued belief evidenced by statutes and in other manners that night work by women in such a place as a factory is so injurious that grave dangers therefrom are to be apprehended.

In Muller v. Oregon (supra) it was said: "Constitutional questions, it is true, are not settled by even a consensus of present public opinion, for it is the peculiar value of a written constitution that it places in unchanging form limitations upon legislative

action, and thus gives a permanence and stability to popular government which otherwise would be lacking. At the same time, when a question of fact is debated and debatable, and the extent to which a special constitutional limitation goes is effected by the truth in respect to that fact, a widespread and long-continued belief concerning it is worthy of consideration. We take judicial cognizance of all matters of general knowledge." (p. 420.)

In Matter of Viemeister (179 N. Y. 235, 240), which considered the constitutionality of a statute passed in the exercise of the police power of the state concerning vaccination, it was said: "A common belief, like common knowledge, does not require evidence to establish its existence, but may be acted upon without proof by the Legislature and the courts. While the power to take judicial notice is to be exercised with caution and due care taken to see that the subject comes within the limits of common knowledge, still, when according to the memory and conscience of the judge, instructed by recourse to such sources of information as he deems trustworthy, the matter is clearly within those limits, the power may be exercised by treating the fact as proved without allegation or proof."

And again it was written in Brown v. Piper (91 U. S. 37, 42) that "Courts will take notice of whatever is generally known within the limits of their jurisdiction."

The knowledge and information before the Legislature which it was thus entitled to consider presented to it a subject of general interest and public concern which justified consideration and legislation. It warranted the belief that night work by women in factories is generally, substantially and especially detrimental to their health, and surely it is a matter of vital importance to the State that the health of thousands of women working in factories should be protected and safeguarded from any drain which can reasonably be avoided. This not only for their own sakes but, as is and ought to be constantly and legitimately emphasized, for the sake of the children whom a great majority of them will be called on to bear and who will almost inevitably display in their deficiencies the unfortunate inheritance conferred upon them by physically broken down mothers.

The Legislature was justified in preventing any such evils as those which were outlined, both real and fairly to be anticipated,

by any legislation which reasonably tended to prevent them, and it had a wide discretion in formulating the means which it would adopt to this end. (People ex rel. Nechamcus v. Warden, etc., 144 N. Y. 529, 535; People v. Ewer, 141 N. Y. 129.)

It was a sufficient basis in that respect for action if only there were reasonable grounds for belief that such labor was thus injurious, even though there was an "earnest conflict of serious opinion" on the subject. (Holden v. Hardy, 169 U. S. 366, 395; Erie Railroad Co. v. New York, 233 U. S. 671, 699.)

The only question then left is the one whether the Legislature was justified in going so far as to prohibit night labor in factories between the hours named by it as a means of promoting the public welfare by averting the actual or apprehended misfortune of broken health of working women. There are well-established general rules by which to test this question.

In considering legislation adopted for such a purpose we must start out with the presumption that it is constitutional and valid. (People ex rel. Kemmler v. Durston, 119 N. Y. 569, 577.) If the statute upon its face appears to be reasonable and just and appropriate, and we can fairly believe that its natural consequences will be in the direction of betterment of public health and welfare, and, therefore, that it is one which the State for its protection and advantage may enact and enforce, it will be the duty of the courts to pronounce it constitutional even though they should doubt its wisdom. (People v. Klinck Packing Co., 214 N. Y. 121; Holden v. Hardy, 169 U. S. 366, 395.) Or, to state the rule in converse form, before we can pronounce such a statute as that now before us unconstitutional we must be able to see either that there is no real, substantial evil of public interest to be guarded against or that there is no reasonable relation between the evil and the purported cure or prevention offered by the statute. (Booth v. Illinois, 184 U. S. 425; Chicago, B. & Q. R. R. Co. v. McGuire, 219 U. S. 549.)

It is not a basis for a constitutional objection to a statute like this generally prohibiting the labor of women between certain hours that in exceptional cases it may prevent employment of some women for a short time between those hours under such conditions as would be productive of no substantial harm. A Legislature must legislate in general terms, and its mandates are not

constitutionally vulnerable because having power to act concerning a certain subject and to legislate in terms reasonably calculated to accomplish the general purpose within the scope of its authority, it covers and prohibits some isolated transaction which by itself would be harmless and unobjectionable. (Purity Extract & Tonic Co. v. Lynch, 226 U. S. 192; People ex rel. Hill v. Hesterberg, 184 N. Y. 126, 131; Otis v. Parker, 187 U. S. 606.)

Neither is it an effective objection to a statute if some of those who will be protected by its provisions oppose such protection, for the State has such an interest in the welfare of its citizens that it may if necessary protect them against even their own indifference, error or recklessness. (Holden v. Hardy, 169 U. S. 366; Hennington v. Georgia, 163 U. S. 299.) Nor if some cases which might have been included are omitted, for police legislation may rest on narrow distinctions. Keokee Cons. Coke Co. v. Taylor, 234 U. S. 224; German Alliance Ins. Co. v. Kansas, 233 U. S. 389.)

Tested and fortified by these rules, we cannot and ought not to say that the Legislature did not act within the wide powers of discretion and judgment possessed by it in adopting the prohibition which it did as a means of preventing the evils with which it was justified in believing the state to be threatened as the result of such night work by women.

There can be no doubt that the means adopted tended to prevent the apprehended danger. The only chance for debate would be whether the prohibition is so wide and so universal that it can be said that it is so out of proportion to the benefits sought that it is burdensome and unseasonable to a degree which transcends the discretion of the Legislature. We feel sure this cannot be said. What is reasonable and appropriate in such a matter must be largely decided by prevailing opinion and judgment, and by reference to what has been and is being done with approval by this and other states and countries in the same and similar matters, and, as has been pointed out, there is no lack of support in such respects for the present enactment. If it is proper, as it certainly has been held to be both by widely held public opinion and by the decisions of the Supreme Court of the land, to protect

the health of woman by restricting the hours during which she may labor in certain pursuits, it cannot be said as a matter of constitutional law that it is illogical and improper for the Legislature to take the further step, which it now has taken, and say that those hours of labor must not be performed at times and under conditions which as a matter of general experience tend generally and substantially to break down the health of the laborer. It requires no very great exercise of judgment and discretion to justify this additional forward step in protective regulation, and it seems to us to be within the power possessed by the Legislature. Of course we are well aware that the process of justifying a new step by the fact that it marks but a short advance over the last preceding one if continued long enough may lead to extremes which cannot be approved. But while we may appreciate that possibility, we only have before us now the specific advance taken by this particular statute, and as we have indicated we think that it is not only not condemned by the test of all the facts and principles of law which are applicable, but is supported and sustained by them.

Various other grounds have been urged upon our attention as ones upon which the constitutionality of the statute might rest. They have not been overlooked, but it is deemed unnecessary to consider them in view of our conclusion in respect of the question which has been discussed.

Therefore, we conclude the statute is constitutional as a police regulation in the interest of public health and the general welfare of the people of the State.

In reaching the conclusion above set forth we have not overlooked or failed to consider the forcibly expressed argument of the appellant that we have been passing through days when many people were prodigal in their generous willingness to devise statutory cures for other people who neither demanded, desired or needed them, and that this statute in its universal application to all factories will inflict unnecessary hardships on a great many women who neither ask nor require its provisions by depriving them of an opportunity to earn a livelihood by perfectly healthful labor although performed during some of the hours of the night. There may or may not be force in some of these arguments. They

are of the kind which involve questions of discretion, judgment and public policy and must be addressed to the Legislature. To put the proposition in a little different way than it is ordinarily stated the question before us is really whether the facts and considerations before and within the knowledge, actual and theoretical, of the Legislature, gave them jurisdiction to decide that night work in factories generally was or might be so injurious to the health of women engaged therein that it should be prohibited in the interest of public health and welfare. If, as we have held to be the case, such facts and information did give it jurisdiction to act, the selection of the method and extent of its action was largely within its discretion and not to be reviewed by us. If it be the actual case that this law as a matter of fact does bear too severely on certain classes of night-working women, the Legislature ought to be open to argument in favor of appropriate modifications of and exceptions to the present statute such as they have made in the case of other industrial statutes. (People v. Klinck Packing Co., 214 N. Y. 121.) At any rate, it ought not to be expected that this Court will seek to offset the errors in judgment of the Legislature, if any there be, in the case of such legislation by straining to overcome the presumption of validity which attaches to such a measure when it comes from the hands of the law-making body and by affixing the stamp of unconstitutionality unless it is clearly called for.

Lastly, it is urged that whatever might be our original views concerning this statute, our decision in People v. Williams (189 N. Y. 131) is an adjudication which ought to bind us to the conclusion that it is unconstitutional. While it may be that this argument is not without an apparent and superficial foundation and ought to be fairly met, I think that a full consideration of the Williams case and of the present one will show that they may be really and substantially differentiated and that we should not be and are not committed by what was said and decided in the former to the view that the Legislature had no power to adopt the present statute.

The statute under consideration in the Williams case, like the present one, prohibited night work by women in factories, and while its provisions were somewhat more drastic than those of the

present one, it may be conceded that these differences were of details and would not serve to distinguish that statute from the present one in respect of its constitutionality. But the facts on which the former statute might rest as a health regulation and the arguments made to us in behalf of its constitutionality were far different than those in the present case.

That statute bore on its face no clear evidence that it was passed for the purpose of protecting the health and welfare of women working in factories, and while of course the presence of or absence of such a label would not be controlling in determining the purposes and validity of the statute, it still was in that case an incident of some importance as leading to the conclusions finally expressed by Judge Gray and adopted by the court as appears by the quotations from his opinion hereafter made.

While theoretically we may have been able to take judicial notice of some of the facts and of some of the legislation now called to our attention as sustaining the belief and opinion that night work in factories is widely and substantially injurious to the health of women, actually very few of these facts were called to our attention, and the argument to uphold the law on that ground was brief and inconsequential.

Especially and necessarily was there lacking evidence of the extent to which during the intervening years the opinion and belief have spread and strengthened that such night work is injurious to women; of the laws, as indicating such belief, since adopted by several of our own states and by large European countries, and the report made to the Legislature by its own agency, the factory investigating commission, based on investigation of actual conditions and study of scientific and medical opinion that night work by women in factories is generally injurious and ought to be prohibited.

The failure adequately to fortify and press upon our attention the constitutionality of the former law as a health and police measure and to sustain its constitutionality by reference to proper facts and circumstances is sufficiently evidenced by what was said by Judge Gray: "I find nothing in the language of the section which suggests the purpose of promoting health, except as it might

be inferred that for a woman to work during the forbidden hours of night would be unhealthful. If the inhibition of the section in question had been framed to prevent the ten hours of work from being performed at night, or to prolong them beyond nine o'clock in the evening, it might, more readily, be appreciated that the health of women was the matter of legislative concern. That is not the effect, nor the sense, of the provision of the section with which, alone, we are dealing. * * * If this enactment is to be sustained, then an adult woman, although a citizen and entitled as such to all the rights of citizenship under our laws, may not be employed * * * in any factory for any period of time * * * if it is within the prohibited hours; and this, too, without any regard to the healthfulness of the employment." (p. 134.)

So, as it seems to me, in view of the incomplete manner in which the important question underlying this statute — the danger to women of night work in factories — was presented to us in the Williams case, we ought not to regard its decision as any bar to a consideration of the present statute in the light of all the facts and arguments now presented to us and many of which are in addition to those formerly presented, not only as a matter of mere presentation, but because they have been developed by study and investigation during the years which have intervened since the Williams decision was made. There is no reason why we should be reluctant to give effect to new and additional knowledge upon such a subject as this even if it did lead us to take a different view of such a vastly important question as that of public health or disease than formerly prevailed. Particularly do I feel that we should give serious consideration and great weight to the fact that the present legislation is based upon and sustained by an investigation by the Legislature deliberately and carefully made through an agency of its own creation, the present factory investigation commission.

I, therefore, think that the order appealed from should be affirmed.

Chase, Hogan, Miller and Cardozo, JJ., concurr; Willard Bartlett, Ch. J., concurs in the result and in that part of the opinion which discusses the Williams case; Collin, J., not voting.

Order affirmed.

3. BRIEF ON LAW PROHIBITING CERTAIN MANUFACTURE IN TENEMENTS

SUPREME COURT.

APPELLATE DIVISION — SECOND DEPARTMENT.

THE PEOPLE OF THE STATE OF NEW YORK,
Plaintiffs-Respondents,

against

JACOB BALOFSKY,
Defendant-Appellant.

BRIEF SUBMITTED ON BEHALF OF THE NEW YORK STATE FACTORY INVESTIGATING COMMISSION AS AMICUS CURIAE

STATEMENT

This is an appeal from a judgment of the Court of Special Sessions, Borough of Brooklyn, rendered April 1, 1914, convicting the appellant of a violation of section 104 of the Labor Law and imposing a fine of twenty dollars.

The defendant on November 12, 1913, was the proprietor of a coat factory in Brooklyn and in violation of said law, contracted with a woman to finish for him twenty children's coats, in a living apartment of a tenement house.

INTEREST OF FACTORY INVESTIGATING COMMISSION IN THIS CASE

The New York State Factory Investigating Commission, which submits this brief as *amicus curiae,* was created by chapter 561 of the Laws of 1911, and continued by chapter 21 of the Laws of 1912, chapter 137 of the Laws of 1913, and chapter 110 of the Laws of 1914. It was directed to inquire into conditions generally under which manufacturing is carried on throughout the

State, and to make recommendations to the Legislature for such legislation as might be found necessary to remedy evil conditions disclosed. The Commission is still in existence, its term of office not having expired.

Section 104 of the Labor Law, the constitutionality of which is before the court for consideration in this action, was one of a series of bills recommended by the Factory Commission in its second report to the Legislature, submitted January 15, 1913, dealing with the subject of manufacturing in tenements. Hence the interest of the Commission in any question which arises with reference to the constitutionality of any of these laws.

HISTORY OF LEGISLATION IN NEW YORK STATE WITH REFERENCE TO MANUFACTURING IN TENEMENTS

In 1884 an act was passed by the Legislature prohibiting the manufacture of cigars and cigarettes in tenement houses in cities having over 500,000 inhabitants. This act was declared unconstitutional by the Court of Appeals in the case of In re Jacobs (98 N. Y. p. 98), which will be referred to in detail hereafter.

From 1885 when the Jacobs case was decided down to 1892, practically nothing was done to regulate or control manufacturing in tenements. The unsanitary conditions found in tenement work rooms made it necessary for the State to take some action, and in 1892 a system of licensing homework was established. The law passed in that year provided that a homeworker engaged in finishing certain articles must obtain a license for the apartment in which he lived and worked. From time to time this law was amended, but licensing of tenements remained its essential provision.

To-day, it is no longer the apartment of the worker, but the entire tenement which must be licensed before any manufacturing can legally be done therein.

At the time the Factory Commission commenced its investigations in 1911, a license was required only if any of the forty-one articles specified in the law were manufactured. Articles not mentioned in the law could be manufactured freely in any dwelling.

INVESTIGATION OF COMMISSION

Immediately after the Commission took up its work of investigation its attention was called to the unsanitary and unwholesome conditions under which manufacturing was carried on in living apartments of tenements, and the Commission was urged to undertake a thorough study of that problem.

In 1911 a preliminary investigation was made, which is set forth in the preliminary report of the commission, pages 83 to 91 and 573 to 587. When the Commission was continued in 1912, a thorough investigation of the subject was undertaken. A director was placed in charge, with a trained corps of inspectors. The investigation covered the city of New York and other cities up State, in which the system of sending goods from factories to tenement houses to be manufactured or completed, prevailed. The results of that investigation are fully set forth in the second volume of the Commission's second report to the Legislature, pages 669 to 755, to which reference is hereby made.

In addition to this investigation, which was conducted in a scientific and impartial manner so that all the facts bearing on the subject might be obtained, the Commission held a series of public hearings in different cities of the State, at which this subject of manufacturing in tenements was considered and the views and suggestions of all parties in interest — employers, workers, physicians and others — were received. Their testimony will be found in the third and fourth volumes of the Commission's Second Report, particularly at pages 1504 to 1631.

FINAL REPORT OF THE COMMISSION ON THE SUBJECT

The Commission's final report on manufacturing in tenements and its recommendations on the subject to the Legislature, are set forth in the first volume of the Second Report to the Legislature, pages 90 to 123.

It is not the purpose of this brief to repeat the findings of the Commission in detail. The reports of the Commission and the testimony taken before it are public records of which this court may take judicial notice. Besides the most salient features have been incorporated in the brief submitted by the learned District Attorney on behalf of the people in this case.

FINDINGS OF THE COMMISSION

Unsanitary Conditions and Disease.

The Commission's investigation showed that work was carried on in tenement houses for factories under the most unsanitary conditions, and that the system of licensing tenements for manufacturing purposes in no way insured the work being carried on under proper conditions. Investigators found work carried on in rooms in which there were persons suffering from contagious and infectious diseases—scarlet fever, diptheria, measles, typhoid, and tuberculosis.

Our investigators found among home working families, many cases of impetigo, a loathsome skin trouble, which is contagious. Children suffering with this disease were found playing with manufactured products. In one case a girl suffering from the disease was found picking nuts for a factory.

The following testimony given under oath by Dr. Annie S. Daniels, a practising physician since 1876, and at the time she testified, in charge of the out-door practice of the New York Infirmary for Women and Children, shows how dangerous to the public manufacturing in tenements is in a great many cases. Part of her testimony is as follows:

> "I have found during this past year, 182 families, 79 with contagious diseases doing this tenement-house work. One family was embroidering monograms and three of the children were sick with measles. The woman was embroidering monograms on table napkins. I found sixteen cases of scarlet fever during the entire time. Where they had scarlet fever, most of the people were finishing men's clothing; that is doing all the hand sewing that is done on men's coats and trousers. The children had scarlet fever. The work was being done in the same room where they were sick, and during the convalescence of the child, by the child, sometimes while the child was peeling. The law requires us to report every one of those cases * * * the notice of the Board of Health of a contagious disease was on the door while the work was going on. I found nine cases of tuberculosis among the 182 families, all of them working. Tuberculosis can be carried.

There was one family, where they were making buttons for women's clothes — that is covering buttons for women's clothes. One of these children was three years old; the mother had tuberculosis. The mother was working herself, and the children were working. I found two cases of poliomyelitis, an infectious paralytic disease of children. The exact nature of how that is carried is not known. It is contagious from child to child. It is a very horrible disease. I know one case where the child died and the woman hardly stopped her work while the child was dying. She was finishing trousers. I was present at that time.

Q. And the child was dying? A. The child was dying.

Q. And the woman did not stop work? A. She could not.

Q. She had to — A. She had to do it; her husband was a gambler. The woman was somewhere between 25 and 30 years old. The child was about — less than two years old; eighteen months. The woman was working in the same room where the child was sick; they had only two rooms."

Second Report, Factory Investigating Commission, Volume I, p. 98.

Manufacturers took no precautions to ascertain the sanitary conditions in homes in which they gave out articles to be made or finished. They made no inspection of any kind. One manufacturer of confectionery who gave out nuts to be picked in a tenement, gave the following testimony:

"I never saw the places where the work is done. They do it in tenement houses. I do not know whether the people are sick or anything about them at all. If we find that there are some sick people in some houses, we would not give them any more work. Once in a while we find it out through other people. But I do not know whether or not people are sick where they do this work.

Q. How do they pick the meat out of the nuts? Do they have any instruments or do they pick it out with their fingers? A. They should pick it out with an instrument, a knife. We do not give them the knife.

Q. Do you know if they crack the nuts with their teeth? A. They should not do that. I do not know whether they do or not."

Second Report, Factory Investigating Commission, Volume I, p. 103.

Investigators of the Commission found that in most cases the nuts were cracked with the teeth and picked out with the fingers and no instrument used.

The Commission summed up the results of this phase of the investigation in its report when it said:

"It seems evident that homework is a danger to the health of the community and that the effort to maintain proper sanitary conditions is so herculean a task as to be wholly illusory as a safeguard of public health."

Second Report, Factory Investigating Commission, Volume I, p. 103.

Other Evils of Tenement House Manufacturing.

Another great evil of tenement house manufacturing was the fact that it made legally possible the work of little children in manufacturing pursuits at home, when the law rigidly excludes them from such occupations in the factories. Children as young as five, six, and seven years of age were found doing this work. One little girl, aged 7, testified that she worked until eight o'clock in the evening.

The hours of labor for women who worked in tenements for factories, were entirely unrestricted. Section 77 of the Labor Law prohibits women from working in a factory more than nine hours in any day or more than fifty-four hours in a week. The manufacturer can escape this provision if he makes a tenement work room a branch of his factory. A home in which manufacturing is carried on is not a factory in the eyes of the law, and the fifty-four hour law does not apply to work done in tenements.

BILLS RECOMMENDED BY THE COMMISSION

In view of these findings the recommendations of the Commission were most conservative in character. They were embraced under the following heads:

1. Prohibition of the employment of children under fourteen years of age in tenement house work. (It was felt, however, that no system of inspection to which the State could resort, would effectually prevent such employment.)

2. Immediate prohibition of work for factories, in living apartments of tenement houses, on all articles likely to become contaminated, and therefore injurious to public health; or on articles from which it is clear that disease may be communicated.

Under the second head the Commission recommended a bill, which resulted in the enactment of Section 104 of the Labor Law (Chapter 260 of the Laws of 1913, taking effect October 1, 1913), the constitutionality of which is the subject of controversy in this action, as follows:

> § 104. *Manufacturing of certain articles in tenements prohibited.*— No article of food, no dolls or dolls' clothing and no article of children's or infants' wearing apparel shall be manufactured, altered, repaired or finished, in whole or in part, for a factory, either directly or through the instrumentality of one or more contractors or other third person, in a tenement house, in any portion of an apartment, any part of which is used for living purposes.

The Commission respectfully submits:

1. That the enactment of this law is a valid exercise of the police power of the State for the protection of the health and welfore of its citizens.

2. That the classification in the law is a reasonable one, and one that may properly be made by the Legislature.

3. That the case of In re Jacobs (98 N. Y. p. 98), is distinguished from the case at bar in several important respects, and is in no way decisive upon the Court in this action.

POINT I.

SECTION 104 OF THE LABOR LAW (CONSIDERED APART FROM THE DECISION IN THE JACOBS CASE) IS CONSTITUTIONAL, AS BEING A VALID EXERCISE OF THE POLICE POWER.

People v. Havnor, 149 N. Y. 195, 200.
People v. Ewer, 141 N. Y. 129-132.
Tenement House Department v. Moeschen, 179 N. Y. 325.
Barbier v. Connolly, 113 U. S. 27-31.
Mugler v. Kansas, 123 U. S. 623.
Noble State Bank v. Haskell, 219 U. S. 104.

Section 104 of the Labor Law bears a direct relation to the health and welfare of the community, and as such is clearly within the police power of the State. That manufacturing in tenements is carried on in unsanitary surroundings and under conditions that breed disease, is clearly established by the official reports of the Factory Commission, of which this Court may take judicial notice.

Muller v. Oregon, 208 U. S. 412.

The report of the Commission shows also the great danger that exists, due to the work being carried on in the presence of contagious disease, and shows that adequate supervision by the State over manufacturing in tenements is difficult, if not almost impossible. The dangers to the health of the public using the products thus manufactured are most serious.

The act in question is a very reasonable one. It aims at the least possible interference with the liberty of the individual. It is limited in the following respects:

1. It applies to work done only for a factory.

The prohibition is aimed not at the tenement house dweller but at the factory owner, to whom the state says: "We will not permit you to make the tenement home a branch of your factory and thus escape the supervision and control over sanitary conditions to which the factory work room is subject."

2. It is limited to work done in the living apartments of tenements.

3. The prohibition is limited to those articles which bear a direct relation to the public health and which are most liable to become contaminated or to be the agency of a spread of disease, viz.: food products and infants' and children's toys and wearing apparel.

Food product manufactories are subject to the closest supervision of state and city and even federal authorities, and this supervision is entirely lost if the work is carried on in living apartments in tenement houses. Nauseating details with reference to nut picking as carried on in tenement houses are set forth in the Factory's Commission's reports on the subject already cited. Such conditions should not be tolerated by the state.

The second prohibition is aimed at the manufacture of infants' and children's clothing and wearing apparel. Children are the special wards of the state and entitled to the greatest protection at its hands. They are easily susceptible to the contagious diseases which the Commission's investigators frequently found to exist in rooms in which clothing and dolls were manufactured or finished.

Taking into consideration the evil conditions that were disclosed, the act in question is most conservative and reasonable and deals only with such matters as have a direct connection with the health and welfare not only of the workers in tenement homes, but of the public who consume the products therein manufactured or prepared.

For the Courts to set aside an act of this character it must appear beyond a reasonable doubt that the legislative act has no substantial relation to the protection or conservation of public health, morals, or welfare.

Ogden v. Saunders, 12 Wheat. (U. S.), 270.
Otis v. Parker, 187 U. S. 606.
Jacobson v. Massachusetts, 197 U. S. 11-31.
People v. King, 110 N. Y. 418.
People ex rel. Nechamcus v. Warden, etc., 144 N. Y. 529-535.

In the case of Otis v. Parker, 187 U. S. 606, Mr. Justice Holmes voices the same idea, when he says on pages 608 and 609, as follows:

> "While the Courts must exercise a judgment of their own, it by no means is true that every law is void which may seem to the judges who pass upon it, excessive, unsuited to its ostensible end, or based upon conceptions of morality with which they disagree. Considerable latitude must be allowed for differences of view, as well as for possible peculiar conditions which this Court can know but imperfectly, if at all. Otherwise, a constitution, instead of embodying only relatively fundamental rules of right, as generally understood by all English-speaking communities, would become the partisan of a particular set of ethical or economical opinions, which by no means are held *semper ubique et ab omnibus.*"

In the case of *Jacobson* v. *Massachusetts,* cited *supra,* Mr. Justice HARLAN said:

> "Upon what sound principle as to the relations existing between the different departments of government can the Court review this action of the legislature? If there is any such power in the judiciary to review legislative action in respect of a matter affecting the general welfare, it can only be when that which the legislature has done comes within the rule that, if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, *has no real or substantial relation to those objects,* or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law, it is the duty of the Courts to so adjudge, and thereby give effect to the constitution."

The facts showing this act to be a health measure pure and simple, were gathered after painstaking and scientific investigation by an impartial and official body, and should be given due weight by the Court.

POINT II.

THE CLASSIFICATION OF THE ACT IS REASONABLE AND DOES NOT DENY TO THE DEFENDANT THE EQUAL PROTECTION OF THE LAW.

People ex rel. Armstrong v. Warden, 183 N. Y. 223.
Barbier v. Connolly, 113 U. S. 27.
Soon Hing v. Crowley, 113 U. S. 703.

In Soon Hing v. Crowley, cited supra, Mr. Justice FIELDS says (p. 709):

> "The discriminations which are open to objection are those where persons engaged in the same business are subjected to different restrictions, or are held entitled to different privileges, under the same conditions. It is only then that the discrimination can be said to impair that equal right which all can claim in the enforcement of the laws."

The Commission in its report recommended the immediate prohibition of the manufacture in any living apartment of a tenement house of food products, dolls and dolls' clothes, and of infants' and children's wearing apparel.

The investigations that were conducted showed that such restriction was plainly called for in the interests of public health. The classification is a most reasonable one, and under the authorities cited is one well within the power of the Legislature to make. Food products are much more liable to contamination than others, and their preparation under entirely sanitary and hygienic conditions is a matter absolutely necessary to the public health. Infants and children are more susceptible than adults to contagious diseases, and it is intolerable that the manufacture of garments and other articles to be worn by them, or which they play with, should be permitted under circumstances that may tend to spread disease. The many reports of work done in homes in which there were cases of scarlet fever, diphtheria, and measles prove that this danger to children is a serious one.

POINT III.

THE DECISION IN THE JACOBS CASE IS NOT DECISIVE OF THE CASE AT BAR.

A. THE CASE AT BAR IS DISTINGUISHED FROM THE JACOBS CASE IN MANY IMPORTANT RESPECTS.

The case of In re Jacobs (98 N. Y., p. 98) is no authority for holding section 104 of the Labor Law to be unconstitutional. The Jacobs case held unconstitutional an act which forbade the manufacture of tobacco products in tenement houses in cities having a population of over 500,000. The decision was in express terms based upon the ground that the act was not a health measure and not passed in the interests of public health. The Court relied upon evidence which they claimed justified this finding. The Board of Health of the City of New York had officially declared, after careful investigation, " that the health of the tenement population is not jeopardized by the manufacture of cigars in those houses; that this bill is not a sanitary measure, and that it has not been approved by this board."

Presiding Justice DAVIS said:

> " If the Act were general and aimed at all tenement houses and prohibited for sanitary reasons the manufacture of cigars and tobacco in all such buildings, or if it prohibited such manufacture in the living rooms of all tenants another case would be presented." (*In re Jacobs,* 33 Hun, 374, 382.)

The measure the Commission recommended differs from the act as construed by the Court in the Jacobs case in the following important particulars:

1st. It is to apply to *all* tenement houses throughout the State.

2d. It is limited in its application to apartments used for living purposes.

3d. It is essentially a health measure necessary for sanitary reasons and in the interests of the public health; that fact is proved convincingly by the testimony heard by the Commission and by the results of its own investigations.

4th. It is limited to work done *for a factory;* that is, it prohibits the use of a living apartment in a tenement house as a branch of a factory in the preparation and manufacture of products having an intimate relation to the public health.

Thus the act in this case differs in material respects from the act under consideration by the Court in the Jacobs case.

> "Difference of degree is one of the distinctions of which the right of the Legislature to exercise the police power is determined."
>
> HOLMES, J., Rideout v. Knox, 148 Mass., 368, 372.

B. IN ANY EVENT, THE COURT IS NOT BOUND BY THE DECISION IN THE JACOBS CASE.

The doctrine of *stare decisis* does not apply in cases involving the police power. The limits of that power are undefined and change with varying conditions.

> "It may be said in a general way that the police power extends to all the great public needs. Camfield v. United States, 167 U. S. 518; 42 L. ed. 260; 17 Sup. Ct. Rep. 864. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare." (HOLMES, J., in Noble State Bank v. Haskell, 219 U. S., p. 104.)

The sole question before the Court is whether or not the present act is a health measure. The views entertained by a Court concerning a somewhat similar act fifteen or twenty years ago should not be decisive. The attitude of the public and of the Courts on these matters of social reform and improvement have changed greatly within the past two decades. Law is a progressive science. What was considered an undue interference with the individual then, is to-day recognized as a proper regulation by the State. The strong individualistic tendencies of the period when the Jacobs case was rendered have given way to an appreciation of the rights of society as a whole and to the necessity for its protection and preservation.

If the Court of Appeals, when it had the Jacobs case before it for consideration, had the benefit of a thorough and impartial investigation, it might even then have determined that manufacturing of tobacco products in tenement houses was unhealthful. However that may be, it is clearly established to-day, and the facts are before the Court for consideration, that manufacturing of food products and of infants' and children's wearing apparel in a living apartment of a tenement house, constitutes a direct menace to the public health, and whatever views the Court may have entertained on this subject twenty years ago, are of no direct concern now.

The Jacobs case should not be permitted to stand in the way of progress and of an improvement in conditions now shown to be essential. Unfortunately, whenever an attempt has been made to correct the evils of tenement house manufacturing, the Jacobs case has been held up as a bar. The Factory Commission did not believe this to be so, and recommended the law now before the Court for consideration, in the hope and expectation that its constitutionality would be sustained as an act designed in the interests of the health and welfare of the community, and for the benefit of humanity, and one that has a direct connection with the object to be attained and is most reasonable in its application.

POINT IV.

THE JUDGMENT OF CONVICTION APPEALED FROM SHOULD BE AFFIRMED.

Respectfully submitted,

ABRAM I. ELKUS,
ROBERT F. WAGNER,
BERNARD L. SHIENTAG,

Counsel for the New York State Factory Investigating Commission, as *Amicus Curiae*.

APPENDIX III

1. Memoranda on the Relationship between Low Wages and the Vice Problem.
2. Questionnaire on the Wage Problem and Replies Received.
3. Minimum Wage Symposium.
4. Memoranda on the Relationship between Wages and Industrial Education.
5. Tentative Plan and Bill with Reference to Consolidation of Departments Inspecting Buildings in New York City.
6. List of Questions on the Fire Hazard in Mercantile Establishments.
7. Study of Hotel Laundries.

1. MEMORANDUM ON THE RELATIONSHIP BETWEEN LOW WAGES AND THE VICE PROBLEM

On May 29, 1914, the Commission issued a letter asking for a memorandum on the relationship between low wages and the vice problem and immorality among women, what effect a living wage would have on that problem and the advisability of enacting minimum wage legislation. The letter was sent to a small group of men and women, well qualified to speak with authority because of their deep interest and knowledge, obtained through many years of experience and study in these matters. The following have submitted statements:

DR. KATHERINE B. DAVIS,
Commissioner of Corrections of New York City, formerly Superintendent of the Bedford Reformatory for Women, New York.

MARTHA P. FALCONER,
Superintendent, Girls' Department of the Glen Mills Schools, Sleighton Farms, Darling, Pa.

DR. ABRAHAM FLEXNER,
Assistant Secretary, General Education Board.

GEORGE J. KNEELAND,
Director, Department of Investigation, American Social Hygiene Association, Director of Vice Investigations.

MAUDE E. MINER,
Secretary, New York Probation and Protective Association.

JAMES BRONSON REYNOLDS,
Counsel, American Social Hygiene Association.

MARY K. SIMKHOVITCH,
Director, Greenwich House, New York City.

FREDERICK H. WHITIN,
General Secretary, The Committee of Fourteen, New York City.

I.

STATEMENT OF KATHARINE B. DAVIS.

I am sorry indeed to have delayed so long in writing you concerning the relation between low wages and crime, but I have been driven beyond the limits of the twenty-four hours in the day to get the things done which require doing. Even now I cannot write at length upon the subject.

My experience of thirteen years in dealing with women prisoners has led me to believe that the problem of low wages and crime is much more fundamental than we are apt to consider it. I do not feel prepared to speak with authority on the question so far as men are concerned, for I have never made a special study of that phase of the question.

In my chapter in the book entitled "Commercialized Vice in New York City," I give some results of a study of the histories of over 2,000 prostitutes. Not all of these women were committed to the institution for prostitution. The study shows that so far as authentic data go, this group of law-breakers are drawn for the most part from the unskilled trades. Their earning capacity is normally low and in many instances there is little hope of developing it. It would seem to me a very difficult proposition to establish a minimum wage for the labor of this class. Even with such a wage established, I fear it would not tend to keep the women out of the life of crime. The trouble goes farther back than the individual girl. She is what she is in many instances, as the tables and comments therein show in the study to which I refer, as a result of low standards of living in the family, these standards being the result of low wages. Very few women have ever told me that they entered upon a life of crime because they could not earn their bread and butter; very many have told me that they were not able to earn the things they wanted. With the women who belong to the skilled trades, the offense is more likely to be of a financial character, due to the fact that the girl's desires were greatly in excess of her earning capacity.

Home surroundings, opportunities for self-development, training as a child, regular attendance at school, and a trade educa-

tion are only possible to children whose parents are in decent circumstances. The question is how to raise the standards all along the line. In my judgment, we must begin with the skilled laborer, fixing minimum wages first in the more highly skilled trades and coming down along the line after minimum wages have been established in these. We will never be able to find employers who will be willing to pay wages in advance of earning capacity, and the adoption of minimum wages in all trades and for all classes of labor, skilled and unskilled, will only be possible as we greatly increase the capacity of the workers. It is something like the old question as to which comes first — the egg or the chicken. A very large proportion of the women I have known who have broken the law were not worth economically any more than they were earning at the time of the commission of the crime. The exceptions were those whom I have referred to as being skilled workers earning decent wages, somtimes as high as $25 a week, who wanted luxuries beyond their earning power.

I am perfectly aware that there is a very serious connection between periods of unemployment and increase in the population of our penal institutions. This increase is, however, for the most part, as in the case of women, made up of unskilled workmen at the bottom of the line. There are, of course, exceptions to these. I feel sure that in the case of our men prisoners the relationship between low wages and crime is not very different from what it is among women. We have, however, in the case of men a larger percentage of those who commit the more serious crimes, and a very much larger percentage of those who commit financial crimes.

I would be very glad if you would read my chapter in Mr. Kneeland's book which is published by the Century Company. I am sending you a copy. The statistical tables will show you the result of our study.

II.

STATEMENT OF MARTHA P. FALCONER.

In any consideration of the question of low wages and the vice problem, we must take into consideration the poor training which many of our girls have received, especially in the communities outside of the larger cities, where there is very little, if any, effort made to enforce the Compulsory Educational Law.

In most of the mining districts where the boys are engaged in the breakers, there are many silk mills and knitting mills offering employment to the girls, and in many of the districts in Pennsylvania, there is very little social conscience and no organized effort to keep these children in school until fourteen years of age at least, and the school offers very little practical training to fit these girls to earn their own living. If we are going to try to establish a minimum wage, we must also raise the standard of efficiency and demand more of our schools in the rural communities and industrial centers — more industrial training for both the boys and the girls. The school work must be made more attractive to them.

My point of view is that of the Superintendent of the State Reformatory, with over eight hundred girls in our care. Every girl has been committed by the court, from the various parts of Pennsylvania. As I talk with the new girl when she first comes, and learn that she has dropped out of school at eleven and twelve years of age because she " did not like it " or " mother needed the money," I realize that the community has a duty toward those girls, first, by trying to have the school interpret life to these girls in a more practical way, and then to enforce the laws. This, of course, applies to the girls outside of Philadelphia and other large cities.

In connection with the work of the Philadelphia Vice Commission, we learned that many of the girls who were drifting into prostitution, came from the smaller towns, seeking excitement. They have been working for wages as low as $2.50 per week. Most of them are inefficient — many of them of low mentality. It would be wrong, I believe, to establish a minimum wage without taking into consideration the enforcement of better educational work.

The community also has a duty in this regard, especially the women belonging to the leisure class, in the lavish expenditure which the girl in the shop sees whenever she comes in contact with the women of wealth. The extravagant and inappropriate way of dressing when on the street or shopping, makes me feel that we all of us need to work for simpler standards of living in order to set an example for the working girl. The more money she earns, the more she will wish to spend upon her dress, and if she cannot earn this in one way, it is, unfortunately, too easy for her to earn it in another. When we can set these girls a better example and make it easier for young men to marry on small incomes, we will go a long way toward helping solve the question of prostitution. I believe that the low wage is a factor in the question of prostitution. The girl who is working for $2.50 or $4.50 per week and must give most of this to her parents to help keep the family together, is naturally going to find other ways of earning money for her clothing and recreation. Better wages alone cannot help unless we can enforce compulsory educational laws and rouse the community to providing recreation.

The girls are careless and heedless in their work. Many of them who are drifting into prostitution could not be made efficient through any more training. We should not try to establish the minimum wage until we can persuade the State to take care of the mentally deficient, and then to give the brighter girls more training and a better equipment.

I realize that this condition does not apply to many states. Pennsylvania has passed legislation to create a colony for feeble-minded women, but at the present time, there is no place in the central or eastern part of Pennsylvania where the defective delinquent may be sent with the exception of one cottage at Spring City, which can care for a few. If we are going to try to establish a minimum wage, let us at the same time insist upon industrial training in our rural schools and the enforcement of compulsory educational law.

The establishment of a minimum wage for girls would only help in part in the mining districts where so many men lose life and limb and at the present time, no private or public agency is adequately trying to meet the situation of keeping the family together. The burden of family support should not be placed

upon the young girls of the family. Usually working in silk mills, these girls are all living at home, trying to help the family budget with their meager salaries. If they earn more, as the competent ones should, more would be expected of them to help support the family. This would not meet the question of the natural longing for recreation and adornment which lures so many of them into an immoral life.

In the rural communities where the girls often come from Pennsylvania Dutch homes to work in tobacco factories, it is an entirely different situation. The mother has not been left with a large family of little children on her hands because the father and older boys have lost life or limb. These girls come from homes of thrift, but no ideals. The schools are poor — often short terms. Education is not considered necessary or desirable by many of the men in such a community. To work and save money is the thing most preached and lived. If the untrained girl did earn more money, more would be expected of her at home.

When these young girls from the mining centers and rural communities run away from home and come to the cities, they cannot earn enough to support themselves in a respectable way. We must keep them in school longer and give them better training while there. These two things should be developed with vocational guidance and the establishment of minimum wage. The girl who is bright and trainable should get a better education; the mentally deficient must have custodial care. Now, we are treating them all alike. Outside of our large cities, after irregular attendance in schools of short terms, we are allowing them to drift in and out of mills and factories, incompetent, irresponsible, becoming a menace to the community later.

The low wage is a factor in the evil of prostitution. Let us try to keep the girl from rural communities and small towns away from the large cities and give her training first so she may have greater earning capacity.

I realize this presents only one phase of the question, but it is an important one.

III.

STATEMENT OF ABRAHAM FLEXNER.

My knowledge of this subject is limited to conditions in Great Britain and on the continent of Europe and is based on a painstaking investigation occupying almost a year. There can be no question that prostitutes come from what may be called the lower classes, economically and educationally speaking. It does not follow, however, that low wages of women are the sole or the decisive factor. Careful studies have been made of large groups of prostitutes, and in none of these groups does it appear that the low wages of the women, as distinguished from the other characteristics of their milieu, are causally responsible for the immoral life. For example: more European prostitutes are derived from the domestic servant class than from any other; yet these women have the bare living which would be assured by a minimum wage. I do not mean in this memorandum to take any position for or against the minimum wage; I wish merely to point out that European experience gives us no reason to believe that it would effectually prevent prostitution.

The fact is that in so far as prostitution is of economic origin it would appear to be connected, not so much with the girl's wage, as with the wage of her father, and the family income. A low family income is attended by general economic pressure with the result that the children are uneducated, untrained to a skilled occupation, and exposed to temptation by the conditions under which they live and get their enjoyment. It is impossible to say under just what circumstances such fatal economic pressure will be felt. It varies from family to family. A specific income may keep a given family under dangerous pressure; while the same income may release another family from pressure. This pressure is, of course, most severe where there is actual poverty; but it exists to a greater or less extent wherever needs and desires run beyond the limit imposed by income and resources. Even so, however, the mere fact of living under economic pressure, be the pressure great or little, is not of itself conclusive. Personal and environmental factors of almost infinite variety play an essential part in almost every instance.

The subject is so complicated and the factors, personal and social, so numerous that a brief statement, such as I am making, is liable to convey erroneous impressions. For this reason I venture to suggest that this statement should be interpreted in the light of the fuller discussion of the subject contained in Chapters I, II, III and XI of my recently published study of "Prostitution in Europe."

IV.

STATEMENT OF GEORGE J. KNEELAND.

In general I maintain that the girls who are employed in industrial pursuits at less than a living wage are as fundamentally moral as their more fortunate sisters who earn higher salaries, or those who live at home in idleness.

To say there is a definite and traceable connection between the wages received by girls and their professional immorality is absurd. It is equally absurd to say there is no connection. We have data which point to the fact that the majority of prostitutes under investigation committed their first sexual offense before or about the time they entered the industrial world. In other words, they were immoral before wages entered into the question. They gave themselves for pleasure, from a desire for excitement, for presents, for many other reasons, prominent among which was ignorant, uncontrolled sex desire. It was but a step then to the taking of money, when the requirements of their false standard of living made them discontented and discouraged.

But that there is a definite economic connection, somewhere, no one can gainsay. We will find it when we study the home life of the majority of girls who are now immoral, but who, as yet, have not taken money for their services.

I am heartily in sympathy with any movement involving legislation for shortening the work day and giving a living wage to girls and women in industry.

We have said so often that girls cannot live on $7 or $8 per week that they are beginning to believe it themselves, and are eager to give this as an excuse for immoral conduct. Society must make it impossible for girls to give this excuse any longer.

But deeper and more fundamental is the necessity for a higher wage for young men and fathers of families. For the first to enable them to marry early in life, and for the latter so that the home may be preserved and a higher standard of living with all its moral safeguards be maintained. Wages alone will not do this, but a father who is able to maintain a home where he can give his children good air, and light, proper food and clothing, will not

neglect altogether to give them religious instruction and proper guidance.

In a home where there is strife, uncertainty and discontent, ethical and religious ideals are relegated to the background, and the disintegration of the home and moral laxity on the part of the inmates begin. Girls from such homes are not necessarily immoral at first, but unmoral. They place no value on their virtue or the part they are to play as future wives and mothers. Under any untoward pressure, many take the easiest way and give flimsy excuses for so doing, as varied as the winds.

Sufficient wages will not change the impulses for sex expression, as fundamental as life itself and as important, but the blessings derived from moral and normal healthy environment, which can be maintained and developed under proper economic conditions, will have a strong tendency to control this life force and direct it into proper and right channels. When this life force is diverted, for any cause, it results in immorality, either professional or clandestine, among both men and women.

Dr. Havelock Ellis, in his studies in the Psychology of Sex, Volume 6, brings together statistics from various countries under the heading of "Causes of Prostitution". In some countries the reasons assigned for prostitutes entering their careers has been estimated by those who come closely into official or other contact with prostitutes. In other countries, it is the rule for girls, before they are registered as prostitutes, to state the reasons for which they desire to enter the career.

"Parent-Duchâtelet, whose work on prostitutes in Paris is still an authority, presented the first estimate of this kind. He found that of over 5,000 prostitutes, 1,441 were influenced by poverty, 1,425 by seduction of lovers who had abandoned them, 1,255 by the loss of parents from death or other causes. By such an estimate, nearly the whole number are accounted for by wretchedness, that is by economic causes, alone. (See De La Prostitution, 1857, Vol. 1, p. 107.)

"In Brussels, during a period of twenty years (1865–1884) 3,505 women were inscribed as prostitutes. The causes they assigned for desiring to take to this career present a different picture from that shown by Parent-Duchâtelet, but perhaps a more

reliable one, although there are some marked and curious discrepancies. Out of the 3,505, 1,523 explained that extreme poverty was the cause of their degradation; 1,118 frankly confessed that their sexual passions were the cause; 420 attributed their fall to evil company; 316 said they were disgusted and weary of their work because the toil was so arduous and the pay so small; 101 had been abandoned by their lovers; 10 had quarreled with their parents; 7 were abandoned by their husbands; 4 did not agree with their guardians; 3 had family quarrels; 2 were compelled to prostitute themselves by their husbands, and 1 by her parents (Lancet — June 28, 1890, p. 1442).

"In London, Merrick found that of 16,022 prostitutes who passed through his hands during the years he was Chaplain at Millbank Prison, 5,061 voluntarily left home or situation for a 'life of pleasure'; 3,363 assigned poverty as the cause; 3,154 were 'seduced' and drifted on to the street; 1,638 were betrayed by promises of marriage and abandoned by lovers and relations. On the whole, Merrick states, 4,790, or nearly one-third of the whole number, may be said to owe the adoption of their career directly to men, 11,232 to other causes. He adds that of those pleading poverty, a large number were indolent and incapable (G. P. Merrick, Work Among the Fallen, p. 38).

"Logan, an English city missionary with an extensive acquaintance with prostitutes, divided them into the following groups:

1. One-fourth servants, especially in public houses, beer shops, etc., and thus led into the life.

2. One-fourth come from factories, etc.

3. Nearly one-fourth are recruited by procuresses who visit country towns, markets, etc.

4. A final group includes, on the one hand those who are induced to become prostitutes by destitution, or indolence, or a bad temper, which unfits them for ordinary avocations, and, on the other hand those who have been seduced by a false promise of marriage (W. Logan, The Great Social Evil, 1871, p. 53).

"In Italy in 1881, among 10,442 inscribed prostitutes from the age of seventeen upwards, the causes of prostitution were classified as follows:

Vice and depravity, 2,752; death of parents, husband, etc., 2,189; seduction by lover, 1,653; seduction by employer, 927; abandoned by parents, husbands, etc., 794; love of luxury, 698; incitment by lover or other persons outside family, 666; incitement by parents or husbands, 400; to support parents or children, 393. (Ferriani, Minorenui, Delinquenti, p. 193.)

"The reasons assigned by Russian prostitutes for taking up their career are (according to Federow) as follows:

Insufficient wages, 38.5 per cent.; desire for amusement, 21 per cent.; loss of place, 14 per cent.; persuasion by women friends, 9.5 per cent.; loss of habit of work, 6.5 per cent.; chagrin, and to punish lover, 5.5 per cent.; drunkenness, .5 per cent. (Summarized in Archives d'Anthropologic Criminelle, Nov. 15, 1901).

"In America Sanger has reported on two thousand New York prostitutes as follows:

Destitution, 525; inclination, 513; seduced and abandoned, 258; drink and desire for drink, 181; ill-treatment by parents, relations or husbands, 164; as an easy life, 124; bad company, 84; persuaded by prostitutes, 71; too idle to work, 29; violated, 27; seduced on emigrant ship, 16; seduced in emigrant boarding house, 8. (Sanger, History of Prostitution, p. 488.)

"In America again more recently Professor Woods Hutchinson put himself into communication with some thirty representative men in various great metropolitan centres, and thus summarizes the answers as regards the etiology of prostitution: love of display, luxury and idleness, 42.1 per cent.; bad family surroundings, 23.8 per cent.; seduction in which they were the innocent victims, 11.3 per cent.; lack of employment, 9.4 per cent.; heredity, 7.8 per cent.; primary sexual appetite, 5.6 per cent. (Woods Hutchinson, 'The Economics of Prostitution', Gynæcologic and Obstetric Journal, September, 1895; Id., The Gospel according to Darwin, p. 194.)"

"Writers on prostitution," says Dr. Ellis,[1] "frequently assert that economic conditions lie at the root of prostitution and that its chief cause is poverty, while prostitutes themselves often declare that the difficulty of earning a livlihood in other ways was a main cause in inducing them to adopt this career. 'Of all the

[1] Psychology of Sex — Vol. 6, page 259.

causes of prostitution,' Parent-Duchâtelet wrote a century ago, 'particularly in Paris, and probably in all large cities, none is more active than lack of work and the misery which is the inevitable result of insufficient wages.' In England also, to a large extent, Sherwell states, 'morals fluctuate with trade' (A. Sherwell, Life in West London, 1897, ch. V.). It is equally so in Berlin where the number of registered prostitutes increases during bad years — (Bonger brings together statistics illustrating this point, op. cit. pp. 402–6). It is so also in America. It is the same in Japan; 'the cause of causes is poverty.' (The Nightless City, p. 125.)

"Thus the broad and general statement that prostitution is largely or mainly an economic phenomenon, due to the low wages of women or to sudden depressions in trade, is everywhere made by investigators. It must, however, be added that these general statements are considerably qualified in the light of the detailed investigations by careful inquirers. Thus Stromberg, who minutely investigated 462 prostitutes, found that only one assigned destitution as the reason for adopting her career, and on investigation this was found to be an impudent lie. (Stromberg, as quoted by Aschaffenburg, Das Verbrechen, 1913, p. 77.) Hammer found that of ninety registered German prostitutes not one had entered on the career out of want or to support a child, while some went on the street while in the possession of money, or without wishing to be paid. (Monatsschrift fur Harn Krankheiten und Sexuelle Hygiene, 1906, Heft 10, p. 460.) But this cause is undoubtedly effective in some cases of unmarried women in Germany unable to get work (see article by Sister Henrietta Arendt, Police-Assistant at Stuttgart, Sexual-Probleme, Dec. 1908).

"Pastor Buschmann, of the Tetlow Magdalene Home in Berlin, finds that it is not want but indifference to moral considerations which leads girls to become prostitutes. * * *

"While the economic factor in prostitution undoubtedly exists, the undue frequency and emphasis with which it is put forward and accepted is clearly due, in part to ignorance of the real facts in part to the fact that such an assumption appeals to those whose weakness it is to explain all social phenomena by economic causes, and in part to its obvious plausibility. * * *

"It must also be remembered — that while the pressure of poverty exerts a markedly modifying influence on prostitution, in that it increases the ranks of the women who thereby seek a livelihood and may thus be properly regarded as a factor of prostitution, no practicable raising of the rate of women's wages could possibly serve, directly or alone, to abolish prostitution. De Molinari, an economist, after remarking that 'prostitution is an industry' and that if other competing industries can offer women sufficiently high pecuniary inducements they will not be so frequently attracted to prostitution, proceeds to point out that that by no means settles the question. 'Like every other industry prostitution is governed by the demand of the need to which it responds. As long as that need and demand persist, they will provoke an offer. It is the need and the demand that we must act on, and perhaps science will furnish us the means to do so.' (G. de Molinari, La Viriculture, 1897, p. 155.) In what way Molinari expects science to diminish the demand for prostitutes, however, is not clearly brought out.

"Not only have we to admit that no practicable rise in the rate of wages paid to women in ordinary industries can possibly compete with the wages which fairly attractive women of quite ordinary ability can earn by prostitution, but we have also to realize that a rise in general prosperity — which alone can render a rise of women's wages healthy and normal — involves a rise in the wages of prostitution, and an increase in the number of prostitutes. So that if good wages is to be regarded as the antagonist of prostitution, we can only say that it more than gives back with one hand what it takes with the other. To so marked a degree is this the case that Despres in a detailed moral and demographic study of the distribution of prostitution in France comes to the conclusion that we must reverse the ancient doctrine that 'poverty engenders prostitution' since prostitution regularly increases with wealth, and as a department rises in wealth and prosperity, so the number both of its inscribed and its free prostitutes rises also (A. Despres, La Prostitution en France, 1883). There is indeed a fallacy here, for while it is true, as Despres argues, that wealth demands prostitution, it is also true that a wealthy community involves the extreme of

poverty as well as of riches and that it is among the poorer elements that prostitution chiefly finds its recruits. The ancient dictum that 'poverty engenders prostitution' still stands, but it is complicated and qualified by the complex conditions of civilization. Bonger, in his able discussion of the economic side of the question, has realized the wide and deep basis of prostitution when he reaches the conclusion that it is 'on the one hand the inevitable complement of the existing legal monogamy, and on the other hand the result of the bad conditions in which many young girls grow up, the result of physical and psychical consequence also of the inferior position of women in our actual society.' (Bonger, Criminalité et Conditions Economiques, 1905, pp. 378–414.) A narrowly economic consideration of prostitution can by no means bring us to the root of the matter." (Havelock Ellis, Psychology of Sex, Vol. 6, pages 259, 260, 261, 262, 263, 264.)

I have quoted the above authorities at length for the purpose of strengthening the conclusions reached by my own investigations into the causes of prostitution in this country. These investigations have considered first, a study of about 300 young girls who are leading clandestine immoral lives at the present time and who stand in great danger of becoming professional prostitutes or kept women. These girls belong to all walks of life. Their fathers are store keepers, furniture dealers, real estate agents, managers of large business enterprises, foremen in factories, laborers, shoe dealers, butchers. The girls are employed in department stores, factories, offices; they are stenographers, cashiers, ticket sellers. Some do not work but live at home in idleness. Some have fathers who own yachts and automobiles. Some are in the grammar school, some in the high school. Yet all are immoral and offer themselves to strangers, not for money, but for presents, attention and pleasure, and, most important, a yielding to sex desire. In the underworld they are known as "charity girls."

The majority of this group are poor and ignorant. For them it is only a step into professional prostitution, which, no doubt, they will take sooner or later. In fact, some have already taken

this step. Will the wages they receive be the direct cause? Who can say?

Second, An investigation into the life history of over 1,000 professional women engaged in the business of prostitution in New York City during 1912.

These are divided into the following groups, according to previous occupation, namely:

a. Domestic servants.
b. Factory workers.
c. Salesgirls.
d. Stenographers, cashiers.
e. Public entertainers, such as dancers, chorus girls, singers, piano players, actresses.
f. School teachers.

The following is a general summary of the histories of these prostitutes formerly employed in the grades of work given above:

Domestic Servants.— Some lazy, weak, vain, with few social gifts; others ignorant with no early training, but gifted with strong emotions and physically attractive.

Throughout the personal reasons for entering the life of prostitution runs a pathetic strain of rebellion and disgust at the meagreness of their lives, the drudgery, of a desire for more life and more money.

The age when they committed their first sexual offence ranges between 9 and 23. The average for 25 was about 16. The prevailing age was 15, in 6 cases.

One domestic said she was born that way. Some were in school when they went wrong.

The average wage paid to 17 domestics per week was about $5.55; the average monthly wage for 10 was about $23.30. In both cases it is also understood that they received their board.

Factory Workers.— In this group we find those who are vain, frivolous, weak minded, yet with strong emotions, and love for their mothers, homes and children.

The home life was poor, strict and forbidding with drunken fathers and immoral mothers. Here the complaint of drudgery is heard, with no outlook, no chance of marriage.

The age when these factory workers committed their first sexual offence ranges from 14 to 22. One girl said she was 9. The average is between 17 and 18. The prevailing age was 17, in 12 cases.

Among the 38 factory workers who gave the amount of wages received per week, some were either beginners or were not sufficiently intelligent to be entrusted with important work. The wages of 18 in this group run from $3 per week to $7.50. Twenty received between $8 and $14 per week. The average for both groups is about $7.40.

Salesgirls.— We must confess we do not find much difference between the personal characteristics of the salesgirls and those given for domestic servants and factory workers. We find the same low type, the same ignorance, the desire for more life, clothes and money, the same weakness and vanity.

One hundred and ten salesgirls gave their ages when they committed their first sexual offence. The ages range from 14 to 22, the average being between 17 and 18. The prevailing ages are, 18 in 27 cases and 17 in 21 cases.

One hundred and eleven of these girls gave the salaries received when employed. These salaries range from $3 to $15 per week, the majority receiving $6, $7 and $8. Eleven received $10; eleven $12, and three $15. The average salary per week for the 110 salesgirls was about $8.24.

Stenographers.— Twenty former stenographers are described as being weak, vain, easily led, ignorant, degenerate, fond of drink and money. Some were estimated to be above the average in intelligence, others quiet and unassuming, with generous impulses, who would have been different under other circumstances.

We have here again the same cry for better clothes, excitement and desire for the companionship of men. Here we find the home life unpleasant and full of strife.

The average age when they committed their first sexual offence was between 17 and 18.

The salaries of these girls ranged from $7.50 to $15 per week. One girl was a typist only and was paid $5.

The average earnings of 20 stenographers was $11.25 per week, the prevailing wage being $12 in 7 cases.

Public Entertainers.— While possessing a higher mental equipment than the domestic servants, factory workers or salesgirls, these public entertainers we found to be vain, conceited and ignorant. They had been swept away by temptation, drawn into the life of prostitution by the desire for more money, better clothes, excitement and the companionship of interesting men.

Forty-five entertainers gave the age when their first sexual offence was committed. These ages were between 15 and 24. The average was between 17 and 18 years.

Forty-nine gave the salaries they received as entertainers. The amounts differed to some extent and ran from $15 per week to $75. The majority received $18 to $25. The average weekly salary for 49 was about $33. The prevailing earnings in 8 cases was $18; and in another group of 8, $22.

While these women gave the need for more money as one of the reasons for entering the life of prostitution, they were capable of earning from 2 to 4 times as much as the domestic servants, factory workers and salesgirls. This is significant.

School Teachers.— We have only eight professional prostitutes on record whose former occupation was school teaching.

One was described as being quiet and refined, and no one would guess she was sporty. One is a thorough degenerate, another pretty, vain, but well educated; another very much affected, fond of clothes, vain and untruthful; another well dressed, modest in appearance, clever, and the last pretty but weak.

Whereas the domestic servant declares that she took up the life because she was tired of the "*drudgery* of housework, tired of being kicked around like a dog by a woman who claimed to be a lady," the school teacher says she is tired of the "*monotony* of teaching, wanted more excitement, better clothes, and the companionship of men."

Two of these school teachers received $80 and $90 per month respectively. One earned $30 per month as a substitute in a kindergarten; another $2 per hour as a teacher of languages, and the last $18 per week teaching backward pupils.

General Conclusions.— From the authoritative statistics and opinions quoted in the first part of this statement, I think we can agree:

1. That the statement that "poverty engenders prostitution still stands, but that it is complicated and qualified by the complex conditions of civilization."

2. " That while the pressure of poverty exerts a markedly modifying influence on prostitution, in that it increases the ranks of the women who thereby seek a livelihood and may thus be properly regarded as a factor of prostitution, no practicable raising of the rate of women's wages could possibly serve, *directly* or *alone,* to abolish prostitution."

3. That " a narrowly economic consideration of prostitution can by no means bring us to the root of the matter."

The latter part of the statement, I believe, corroborates the conclusions reached by students abroad. Briefly summarized, these conclusions are as follows:

The study of the mental and physical characteristics of the girls in the various occupations from domestic servants to school teachers reveals the fact that they are all weak, vain, ignorant, easily led, and each one striving for a higher financial standard of living from that to which they are accustomed. The domestics as well as the school teachers, and all those in between have physical attractiveness, are lovable and have affectionate dispositions, and would have been useful and happy members of society if they had been under strict discipline, and in a more healthful and normal environment.

All through their personal reasons, from the domestics to the school teachers, they were eager to see life, have better clothes, more excitement. They were rebellious against home restrictions, blamed their fathers and mothers, their low salaries, and the men who had been responsible for their trouble.

It is obvious on the face of it that the majority of those in two groups, the factory workers and salesgirls, do earn less than a living wage, and are eager to place the blame there; yet the next three groups, the stenographers, public entertainers and the school teachers, earning a living wage, are just as eager to put the blame there also.

The complaint that housework is a drudgery, that industrial work is tiresome, that professional occupations are monotonous, is unworthy. Life is hard and commonplace at best, no matter in what station one moves, or what work one is called upon to do.

We are breaking away from religion, parental and community control in these days, and when we are broken for this disobedience we cry like children, and hide our weakness behind flimsy excuses.

What is the cause of this general breakdown and moral laxity? We find it not only among the families of the poor, but among those in comfortable, even affluent, circumstances. Is it economic or social or a combination of both?

In spite of years of investigations into the weaknesses of human nature and its moral disease, I believe that the majority of those now living professional immoral lives are living as they are because of conditions which can be improved, through more economic justice, through education, through a better knowledge of sex life, and a return to the simple yet powerful influences of the religion of our fathers.

The foregoing statement is my individual opinion, based upon data now available. Further investigations may warrant a change in this opinion.

V.

STATEMENT OF MAUDE E. MINER.

No one condition is ever solely responsible for bringing a girl into a life of prostitution. Different forces which operate with varying pressure upon the girl, gradually break down the defenses and bring the individual to the point where she seems powerless to resist. Economic conditions constitute one of these factors; one or more other conditions, including mental deficiency, bad home environment, lack of opportunities for wholesome recreation and procuring by white slave traffickers, are usually found operating at the same time.

It is frequently impossible to say which of these factors is most potent; it has been their very combination that has caused the girl to fall when she might have been able to stand in the face of one or two of these forces. Lack of work, dangerous work, lack of training for work, and lack of efficiency in work, in addition to low wages, are among the economic forces which partially explain the presence of some girls in prostitution.

Great numbers of girls begin work at the age of 14, without any understanding of the moral dangers which await them; few have any training for work or skill in doing work; they take the first opening that is offered, without regard to their particular fitness for it; they are ignorant and inefficient as well as untrained, and do not make rapid progress in mastering the work; they become so fatigued with the endless mechanical operations and the incessant, monotonous work that will-power is undermined; the small wage they receive is frequently insufficient for the actual necessities of life so that someone must make up the deficit; they have little margin for recreation or for savings. When the slack season comes or there is a depression in business, they are thrown out of work without any provision for the future, and face the necessity of walking up and down the streets and answering innumerable advertisements in quest of other employment. Is it a wonder that some of these girls, pressed through hunger and want, fatigued and over-strained, fearing to face an irate father or mother, who demands that they work if they continue to live at home, follow the path of least resistance, accept the offers of

men who make them flattering proposals, and soon find themselves in a life of prostitution?

In so far as the low wage affords less than is requisite for the necessities of life, and no margin of saving for the time of unemployment, in so far as it gives no chance for wholesome recreation and some of the little luxuries which the girlish heart craves, it is a force that tends to bring the girl who lacks the defenses of moral stamina and high ideals, and who has already taken the first steps in a life of immorality, into the abyss of prostitution. Although not one of the most important factors, the low wage is an element in causing girls to enter and remain in professional prostitution.

It is not merely the low wage of the girl, but the low wage of the family which explains the real trouble. The low wage of the father has to a large extent determined the unfortunate home environment, in which the girl has lived, the early age at which she has gone out to work, her lack of opportunity for good recreation and her contact with demoralizing forces in a crowded district of the city.

Although low wage is one of the economic factors tending to bring girls into a life of professional prostitution and making it more difficult for them to get out, it has practically no influence in causing girls to take the first immoral step. There the economic factors enter to only a very slight extent. Among the thousands of girls leading a life of immorality or prostitution, whom I have known and worked with during the last eight years in the courts of New York City, at Waverley House and in the New York Probation and Protective Association, I have had no girl tell me that she took the first immoral step because of a low wage. Some have claimed that it was responsible for their entrance into prostitution, though other factors were also operative.

As we recognize that no one factor explains the entrance of a girl into prostitution, so there is no one remedy for all. Since economic conditions enter as one factor, those conditions should be improved. Steps should be taken to provide more adequate trade training for the great number of girls who are to enter industry; if possible girls should remain in school until sixteen years of age, when they may be better prepared to meet the

dangers and temptations that come through work. At the same time that they are better prepared for work, individual inclinations and aptitudes should be consulted so that as far as possible, girls may find their way into congenial work that will enlist their interests and ambition; strenuous efforts should be made to lessen the long periods of unemployment and the amount of irregular and seasonal work. Through free employment bureaus of city and State, special attention should be given to the placement of workers, and wages should be increased so that each individual has a margin for recreation and saving, and enough for the necessities of life. A living wage for the father of the family is absolutely essential and is of even greater concern than the wage of the individual girl. If after complete investigation, it appears to be desirable to recommend legislation to provide for a minimum wage commission, I trust that the regulation of wages of men as well as of women may be included.

If the adoption of a minimum wage will mean a living wage, if the minimum wage will not tend to become the maximum wage, and if society will adequately care for the large number of incompetents who will necessarily be thrown out of work as a result of wage legislation, I should favor the appointment of a minimum wage commission. The coming of a minimum wage will necessitate better training for work, will increase efficiency in workshops and lessen the tremendous economic pressure.

In so far as these results would appear, and make conditions more tolerable for the mass of workers, there would be gain, but no change of the economic system, merely, will change the great moral problem.

Because prostitution is so complex and many forces are responsible for the wreckage of a large number of girls each year, the remedies must be sought in a variety of directions, in improved home and economic conditions, in better recreational facilities, in segregation of the feeble-minded, in vigorous enforcement of laws against exploiters and procurers, in moral education of youth, and in increased recognition of social and individual responsibility for the prevention of prostitution.

VI.

STATEMENT OF JAMES BRONSON REYNOLDS.

You request a statement regarding the "relationship between low wages and the vice problem and immorality among women." The subject is one to which I have given much attention. I have had occasion both recently and while an Assistant District-Attorney to investigate cases where girls alleged that they had been forced into a life of shame because of low wages. I found no case in which this statement was substantiated. Undoubtedly isolated instances have occurred, but so very large a proportion of the girls living on low wages are moral, decent and pure-minded that it would be a libel on them to draw the inference that low wages *force* many girls into a life of immorality.

But though I have found no direct relation between low wages and vice, I have found an indirect relation between general poverty and vice. The poverty of the family of which the girl wage earners are members often subjects them to the enticements and dangers of vice. This poverty compels the daughters of the family to go out to work at an early age and to find entertainment in dance halls, public resorts and on the street. If they be weak of mind, weak of will or of reckless disposition the danger of their downfall is very great. Especially is this true if the influence of the home is further demoralized by drunkenness, immorality or mental defectiveness of one or both parents.

Mentally defective or mentally inferior girls form a large and important number of those led into immorality through poverty. The report of the recent Massachusetts State Commission on Vice shows that 51 per cent of the girls of immoral character found in certain State institutions in Massachusetts were mentally defective. The Commission expressed the opinion that a still larger percentage of the number examined could probably be classed as mentally subnormal. The investigations by Katharine Bement Davis of girls in Bedford Reformatory point in the same direction, as do other similar inquiries including a recent investigation in England.

These and other investigations probably justify the conclusion that not less than 50 per cent of the prostitutes in our cities are

mentally defective or inferior. If these statistics are correct, then poverty plus mental deficiency would seem to explain largely "the relationship between low wages and the vice problem."

It is equally true that male criminals are largely recruited from mentally defective or inferior boys and that the pimps and procurers who make girls their victims are to a large extent drawn from this class. We have, therefore, mental inferiority as the cause of the downfall of many, both boys and girls, later engaged in immoral or criminal practices. The thorough examination of all our youth in the early years of public school experience, a more extensive provision for the industrial training of backward boys and girls and the better protection of these children of the poor I hope will be considered by your Commission.

I do not wish to express an opinion regarding the desirability of a minimum wage because I realize that many factors are involved in an adequate consideration of the subject. The inflexibility of the law is but one of the complications which occurred to me. I have, however, advocated the raising of the wages of youth even when thereby some would be forced out of employment. I believe it to be in the interest of society that boys and girls should be prevented from beginning labor until they have reached such an age or such a condition of fitness as would enable them to receive a fair compensation, but I hold that it would be a mistake to provide legislation which would prevent boys and girls from going to work before they can earn enough to pay their entire living expenses.

VII.

STATEMENT OF MARY K. SIMKHOVITCH.

The working girls I have known have in general a high standard of personal morality. In instances where this is not the case it would be difficult to establish a directly causal relation between low wages and immorality. The girls I have known who have become prostitutes or have had unfortunate experiences either have had an unhappy home life, have become the victims of false promises, or have been of feeble mentality. It is true that unhappy home conditions are also often caused by an insufficient income. But that is a question of the family income as a whole rather than the wage of any individual member of the family.

It is an unceasing wonder to me that the girls who receive very low wages continue to keep their high moral standards. That they do so is I believe largely due to these facts:

1. That the girl's wage is generally merged in the family joint income. Sometimes of course she has to support others with her wages, but sometimes she is partially supported from the family income.

2. The general moral tone of her environment in church, club, family or other group. She does not want to face an adverse public opinion.

But while I do not believe a directly causal relation is established between low wages and prostitution it is also clear to me that for a girl to receive less than a living wage will result disastrously for the girl and for society. The low-wage girl has no margin for recreation, she cannot dress well and hence can't get better positions, she is dependent upon her family (in which case very often family friction arises) or she is dependent upon the charity of private individuals or societies, or (and this is the most likely and inevitable) the girl skimps herself on food and goes down hill physically. This means she is likely in the end to become a public charge or in the case of marriage to become an invalid wife and the mother of physically inferior children. From the point of view of social efficiency, the point of view we should take as citizens, there can be no greater disaster than this.

I believe it is absolutely futile to expect that the girls who are in the underpaid industries will have the strength to gain higher wages through collective bargaining. To rely on women's unions for securing and maintaining proper wages is at the present time almost hopeless. I am therefore strongly in favor of the establishment of wage boards with power to fix wages in the case of the lowest paid unorganized industries where women are employed.

VIII.

STATEMENT OF FREDERICK H. WHITIN.

The low wages of men should be the first to be considered in this connection. There is unquestionably a direct relation between sexual immorality and a wage which is insufficient to enable the average man to marry at the age when the sex instinct is insistent and to maintain on that wage the social standard of his class. Since the satisfaction of the sex instinct has for years been considered a necessity for men — the so-called sexual necessity — and since normal satisfaction should come only through marriage, any postponement of marriage as the result of a low wage has caused men to obtain abnormal sexual satisfaction out of marriage which constitutes sexual immorality.

Constant association with the prostitute results inevitably in a lowering of the moral standard and the ease of procuring sexual satisfaction out of marriage results in a decrease of the sex stimulus; both tend to decrease men's natural desire to marry and encourage a continuance of sexual immorality. Thus the effect of low wages for men is to create both an increased sexual immorality and an increased demand for the prostitute.

It is very frequently asked: Does the low wage of women tend to increase the number of prostitutes? A woman must earn a wage sufficient to provide the necessities for her standard of life and any wage insufficient to enable her to do this has very decidedly such a tendency. The wages received by those workers who are mentally deficient or industrially incompetent are always low according to this standard. Hence, prostitution is a natural resource for these two classes of women and is accepted by them as a means of livelihood to a considerable degree. Until such time as the first group are cared for by the State, and until the second has been made of greater economic value, they will probably continue to supply the ranks of prostitution. To this number must be added those who are morally weak.

The low wages of the man who has a family are also, in a measure, responsible for a part of the prostitutes, for a wage which fails to enable the father to provide proper housing for his family, rapidly destroys a girl's natural modesty and her moral sense.

There is also a fourth group, viz., the woman employed in seasonable trades on a wage so low that she cannot accumulate a reserve for the time when she is without work. The necessities of such times would seem to cause casual prostitutes.

The proportion remaining — those with whom the low or insufficient wage is the sole factor in their adoption of a life of prostitution,— is probably a small one.

An increased economic efficiency in both sexes; the elimination of the evils of seasonable trades and the governmental care of the mentally, morally and industrially incompetent, would remove much of the existing supply for prostitution. The State should care for the weak, but its first aim should be to make its citizens so industrially competent that they may be economically self-sustaining and so independent. The State should remove all hindrances to individual success but should not remove the incentive of necessity and competition. Therefore, a minimum wage determined by a governmental agency to be paid by private employers, would not reduce prostitution unless it was a minimum annual wage for both men and women and then not unless the government guaranteed employment at that minimum wage to all those whose services the private employer could not use profitably.

2. QUESTIONAIRE ON THE WAGE PROBLEM

On July 1, 1914, the Commission sent out a large number of circular letters, accompanied with a "List of Questions," as follows:

The New York State Factory Investigating Commission was authorized by the Legislature to inquire into rates of wages in the different industries of the State and to make such recommendations for wage legislation as might be found advisable. The Commission was specifically directed to report upon the advisability of having the State fix minimum rates of wages for workers.

For the past year we have been engaged in making a comprehensive investigation of wages in several industries. Our statistics have not yet been completely tabulated, but in many cases we have found wages to be very low.

The question arises as to what remedy, if any, shall be adopted. We have prepared the questions on the wage problem hereto annexed, so as to obtain the views and suggestions of a number of representative persons. The Commission hopes that you will give these questions careful consideration and that you will answer them as fully and completely as you can, citing illustrations if possible, from occupations with which you are familiar. You may change the form of the questions or may make any sugestions that are not covered by them. The Commission will appreciate it if you will send in your answers to its office, 170 Broadway, New York City, as soon as possible.

Asking these questions does not mean that the Commission has decided upon any plan of legislation, or is in favor of or opposed to the establishment of a minimum wage.

LIST OF QUESTIONS ON WAGE PROBLEM

NOTE.— Please answer so far as possible in the light of your experience, stating what that experience has been.

1. What factors determine the rates of wages which any one individual worker or different groups of workers receive?

The following have been suggested:

The efficiency of the worker;
The needs of the individual or of the family;
The needs of pin money workers;
The mode or standard of living;
The danger and difficulty of the occupation;
The regularity of the work;
The chance of success or advancement;
Local or trade traditions;
The number of workers available;
Organization of the workers;
Organization of the employers;
The size of the profits.

Please number these in order of their importance, striking out those you consider unimportant and adding any others you desire. Please discuss these factors as fully as possible.

2. Do you believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole?

3. If you believe number 2 to be true in general, are there any particular industries or groups of workers that for special reasons are an exception to it? If so, mention any such and state why they are exceptional.

4. If you believe present wages in general or for any particular groups of workers are inadequate, how can they be raised?

a. By governmental action?
b. By what other agency and how?

5. If governmental action is desirable, is the best form the establishment of a minimum wage (the amount to be determined for different industries, after investigation by some administrative body)? If not, what other governmental action is available and how can it be secured?

A full statement of your reasons for or against the establishment of a minimum wage, as indicated, would be greatly appreciated.

6. If the establishment of a minimum wage is desirable should its application be limited to women and minors? Why?

7. If you believe in the establishment of a minimum wage by governmental action, what administrative agency should fix the minimum?

a. How should such body be composed (numbers and personnel)?
b. How chosen and appointed?
c. How financed (appropriation, salaries, expenses, services, etc.)?
d. What powers (as subpoena, administration of oath, right to enter, examine books, etc.) should be granted?
e. Upon what grounds should investigations be initiated?
f. Should the minimum wage when declared be made compulsory, or if not, how shall observance be secured?
g. What limitations, if any, should be imposed upon its rulings?
h. Should there be any subordinate advisory body (as the wage boards for special industries in Massachusetts)?
i. How should such advisory body or wage board be constituted?
j. How chosen and appointed?
k. What should be its functions?
l. What compensation, if any, should be given members?

8. What effect would a minimum wage have —

a. On the employer or industry affected?
b. On the workers affected?
c. On any particular classes of either?
d. On the liberty of action of the workers?
e. On the opportunity of obtaining a higher wage than the minimum?
f. On the workers who are inefficient or incompetent?
g. On the regularity of employment?
h. On the price of the product of the industry affected?

NOTE.— *If an employer, please state what you believe would be its effect in your particular business, mentioning what that business is.*

Following is a list of persons whose replies to the questionnaire are presented herewith. The answers present for consideration various aspects of the wage question. For convenience, the replies are printed alphabetically, in groups corresponding to the numbers in the list of questions:

D. B. ARMSTRONG, *Director, Bureau of Public Health and Hygiene, Association for Improving the Condition of the Poor, New York City.*

G. L. ARNER, *Publicist, Jefferson, Ohio.*

SELDEN BACON, *Lawyer, New York City.*

LLOYD V. BALLARD, *Department of Economics, Beloit College.*

L. BARNET, *R. H. Macy & Company, New York City.*

GERTRUDE BARNUM, *Special Agent, United States Commission on Industrial Relations.*

GEORGE GORDON BATTLE, *Lawyer, New York City.*

EMMA B. BEARD, *President, New York State Consumers' League.*

HOLMES BECKWITH, *Department of Economics, University of California.*

HARRY BEST, *University Settlement, New York City.*

ROY G. BLAKEY, *Department of Economics, Cornell University.*

E. W. BLOOMINGDALE, *Counsel, New York City Retail Dry Goods Association.*

R. M. BRADLEY, *Bradley & Tyson, Boston, Mass.*

EDWARD M. BREWER, *Boston, Mass.*

EDGAR D. BRINKERHOFF, *Accountant, Fall River, Mass.*

J. L. BURRITT, *Secretary, Ontario Knife Co., Franklinville, N. Y.*

HENRY L. CALMAN, *Emil Calman & Co., New York City.*

CHARLES L. CHUTE, *Secretary, New York State Probation Commission.*

VICTOR S. CLARK, *Department of Economics and Sociology, Carnegie Institution, Washington, D. C.*

MILES M. DAWSON, *Lawyer and Actuary, New York City.*

O. L. DEAN, *Bush & Dean, Ithaca, N. Y.*

CARROLL W. DOTEN, *Secretary, American Statistical Association.*

ELIZABETH DUTCHER, *Treasurer, Retail Clerks' Union, New York City.*

GEORGE EASTMAN, *President, Eastman Kodak Co., Rochester, N. Y.*

SARAH ELKUS, *Director of Women's Work, Educational Alliance, New York City.*

ELIZA P. EVANS, *Secretary, Minnesota Minimum Wage Commission.*

JOSEPH FREY, *President, National Federation of German-American Catholics, New York City.*

C. E. GARDINER, *President, Gardiner-Lucas Co., New York City.*

W. A. GARRIGUES, *Levering & Garrigues Co., New York City.*

F. H. GILSON, *President, F. H. Gilson Co., Boston, Mass.*

WILLIAM P. GONE, *Salem, Mass.*

BOLTON HALL, *Publicist, New York City.*

W. R. HEATH, *Vice President, Larkin Co., Buffalo, N. Y.*

LEO HIRSCHFELD, *Vice President, Stern & Saalberg Co., New York City.*

GEORGE K. HOLMES, *Washington, D. C.*

MARY ALDEN HOPKINS, *Social Investigator, New York City.*

HOWARD C. HOPSON, *Albany, N. Y.*

E. D. HOWARD, *Hart, Schaffner & Marx, Chicago.*

F. LINCOLN HUTCHINS, *Baltimore, Md.*

BELLE LINDNER ISRAELS, *Dress and Waist Manufacturers Association, New York City.*

W. T. JACKMAN, *Department of Economics and Commerce, University of Vermont.*

N. JOHANNSEN, *Rosebank, N. Y.*

ALVIN S. JOHNSON, *Professor of Economics, Cornell University.*

E. M. KEATOR, *Paper Box Manufacturer, Brooklyn, N. Y.*

R. C. KEMMERER, *Brooklyn, N. Y.*

WILFORD I. KING, *Department of Economics, University of Wisconsin.*

GEORGE J. KRAFT, *Manufacturer of Paper Specialties, New York City.*

JAMES C. KUHN, *Manufacturing Confectioner, New York City.*

H. P. LANSDALE, *General Secretary, Young Men's Christian Association, Rochester, N. Y.*

DON D. LESCOHIER, *Chief Statistician, Minnesota Department of Labor and Industries.*

BURDETTE G. LEWIS, *Deputy Commissioner of Correction, New York City.*

WILLIAM H. LOUGH, *President, Alexander Hamilton Institute, New York City.*

BENJAMIN C. MARSH, *Executive Secretary, Society to Lower Rents and Reduce Taxes on Homes, New York City.*

DAVID A. MCCABE, *Department of Economics, Princeton University.*

GEORGE A. MCKINLOCK, *President, Central Electric Co., Chicago.*

G. T. MCWHIRTER, *McWhirter Hardware Co., Cleveland, Okla.*

HENRY T. NOYES, *President, German-American Button Co., Rochester, N. Y.*

ALMUS OLVER, *Secretary, Associated Charities and Churches, Syracuse, N. Y.*

ALFRED E. OMMEN, *Counsel, Typothetae of the City of New York.*

EDWARD D. PAGE, *Chairman, Committee on Commercial Law, Merchants Association of New York.*

MAURICE PARMELEE, *Department of Political Science, College of the City of New York.*

RAYMOND V. PHELAN, *Department of Economics, University of Minnesota.*

L. G. POWERS, *Washington, D. C.*

CHARLES ROHLFS, *President, Central Council of Businessmen and Taxpayers Associations, Buffalo, N. Y.*

HUGO SEABERG, *Lawyer, Raton, N. M.*

E. M. SERGEANT, *Factory Manager, Niagara Alkali Co., Niagara Falls, N. Y.*

FLORENCE SIMMS, *Secretary, Committee on Industrial Work, National Board of Young Women's Christian Associations, New York City.*

HARRISON B. SMITH, *Lawyer, Charleston, W. Va.*

G. F. STEELE, *Chicago, Ill.*

ROBERT R. TAYLOR, *Director of Mechanical Industries, Tuskegee Institute.*

H. K. THOMAS, *Factory Superintendent, Pierce-Arrow Motor Car Co., Buffalo, N. Y.*

W. H. THOMPSON, *Editor, Switchmen's Journal, Buffalo, N. Y.*

A. C. VANDIVER, *Lawyer, New York City.*

O. J. WEEKS, *O. J. Weeks Co., Confectioners' Specialties, New York City.*

WILLIAM L. WEST, *Secretary, West Publishing Co., St. Paul, Minn.*

ANSLEY WILCOX, *Lawyer, President, Charity Organization Society, Buffalo, N. Y.*

MORNAY WILLIAMS, *Lawyer, New York City; President, New York Child Labor Committee.*

QUESTION No. 1.

What factors determine the rates of wages which any one individual worker or different groups of workers receive?

The following have been suggested:

The efficiency of the worker;
The needs of the individual or of the family;
The needs of pin money workers;
The mode or standard of living;
The danger and difficulty of the occupation;
The regularity of the work;
The chance of success or advancement;
Local or trade traditions;
The number of workers available;
Organization of the workers;
Organization of the employers;
The size of the profits.

Please number these in order of their importance, striking out those you consider unimportant and adding any other you desire. Please discuss these factors as fully as possible.

D. B. Armstrong

It seems to me to be rather difficult to give a grading to the suggested etiological factors. I suppose organization might come first and then possibly the mode and standard of living. It does not seem to be very important to attempt a classification of these factors, for they are all more or less of a certain type. They are, of course, of direct immediate influence on the rate of wages, but there seem to me to be much more important factors not included in the list, which are of decidedly more fundamental significance and are of underlying, perhaps predisposing indirect influence in contrast to the factors enumerated. I have in mind the lack of a socialized organization for carrying on the work of the world resulting in poverty, destitution and unrest; an entirely inadequate system of education, both cultural and vocational, resulting in a class of ignorant and unimaginative toilers; and a lack of economic independence of one-half of mankind — the female half.

G. L. Arner

Wages are determined primarily by the cost of the production of a laborer. That is, wages on the average will be just high enough to maintain the laborer and a family of the average size, with some assistance from wife and children at the current and slowly rising standard of living. For short periods wages vary according to the supply of and the demand for labor. Labor is simply a commodity under modern industrial conditions and its price (wages) is governed by the same laws as govern the prices of commodities. Organization of laborers, through collective bargaining, tends to increase wages, but the effect of such organization is largely counterbalanced by the organization of the employers. The other factors suggested may have local or transitory effect on wages in a community or the wages of an individual, except the " needs of the individual and his family," which can have very little if any effect on wages.

Selden Bacon

I have no doubt that each of the twelve matters suggested is a factor; and there are, I think, other factors not mentioned — in particular, the value of money, which I do not find mentioned in any way. Also there should be mentioned the possibility of earnings in other lines, and, incidental to that, the available unoccupied land, and also social conditions in different lines.

Some of the factors you have mentioned impose maximum limitations on wages. Others impose minimum limitations; and I think you would get a clearer understanding of the problem if you should work out the direction of each force that is mentioned. That is a labor requiring some study. Some of these factors are indispensable; others are not.

Fundamentally, I disagree entirely with the wage fund theory of political economy, although I appreciate, as everyone must, that available cash working capital facilitates production, and facilitates turning wages into cash compensation.

I would classify on the one side together as absolute maximum limitations on possible wages the efficiency of the worker and the size of the profits. In a sense, these two factors are identical. Wages, except in experimental enterprises, normally come out

of the product. The size of the profits on the work of any individual worker necessarily depends on his efficiency. The collection of large bodies of workers in the same line tends to average the wages of the body, except in cases of piece-work, and even there in some degree.

On the minimum side, the boundaries are clearly set by the actual needs to support life. And next in importance to this as a minimum boundary, is what the wage earner can get in other occupations open to him. Between these maximum and minimum factors there is room for the play in a minor measure of all the other items that you mention.

In most occupations the needs of pin-money workers should be regarded in my judgment as of comparatively slight importance, because workers of that class are to a great extent limited in their kinds of occupation, and in their capacities. They are, of course, a factor, and in certain particular lines of labor not highly skilled they constitute a considerable competitive force; but looked at from the standpoint of cost of production, it seems to be rather a question of whether the pin-money worker is getting due compensation or not. In other words, as a rule the pin-money worker makes a gift to the employer of services for less than their value, but workers of this class are not apt to appear in branches of industry requiring any high degree of training, and their efficiency is apt to be low.

There is another factor which in certain lines of occupation operates very strongly, which I do not see mentioned in your list. That is the social position of the worker. For the class of service rendered, that is, for the amount of training and skill it takes to perform the service, there is probably no more highly compensated form of labor than that of domestic service; and this high compensation seems to be induced very largely by the social position and lack of social opportunity open to a domestic servant. On the other hand, it seems to me that the danger of an occupation generally is not duly allowed for. The chance of success or advancement, except in a minority of cases, seems to me to be over-rated, as in the long run that chance is governed more by the capacities of the individual than the nature of the employment. The number of workers available is in my opinion

apt to be given undue prominence, as it is more dependent on the unwillingness of workers to turn their hands to some different occupation, than on any other factor, as compared with the amount of work to be done. Organization of workers and organization of employers are undoubtedly factors, but I think that undue prominence is generally given to these. They, of course, tend to offset one another.

The great trouble with the organization of workers, today, is that those organizations are generally not directed to the promotion of efficiency of the workers, and I hope the day will come when that factor will be duly recognized by all the labor unions as a vital need of their organization.

Another factor that I think should never be overlooked is the willingness of the worker to do *an honest day's work for an honest day's pay.* Other factors that must be regarded are, that not only efficiency but honesty and trustworthiness must be paid for.

Lloyd V. Ballard

I believe that the efficiency of the worker is the primary factor which determines the rate of wages paid either to the individual worker or to the different groups of workers. Differences in skill, in capacity, are the fundamental differences in workers from the employers' standpoint. These are factors which determine whether a given worker shall receive $1.50 or $7 a day for his services. Differences in efficiency mean differences in the quality and sometimes in the quantity of the service rendered. These differences in the quality and quantity of the service rendered are reflected in differences in the rate of wages paid. This explains the difference in the rate of wages paid to the engineer on the locomotive and his fireman or the man on the section gang; it accounts for a difference in return to the hod-carrier and the master mason.

In conjunction with this factor of efficiency the supply of any particular kind of labor must be considered. Efficiency alone does not account for all differences in wages received. Supply must always be checked up with demand in any attempt to determine the rate of return to any of the factors of production. This factor of supply is equal in importance, almost, with the

factor of efficiency, although at present the training necessary to the making of a skilled worker has operated to limit supply. But these differences in supply, however caused, explain particularly the differences in the wages received by particular groups — for example, teachers and lawyers.

It is difficult to answer this question in a few words. Many qualifications are necessary if one is to approximate accuracy. If I were to answer the question in one sentence I should say *that wages were determined primarily by the efficiency of the worker, the supply of the particular kind of labor in question determining the return within the group.*

There are particular factors which operate in particular industries and which cannot be enumerated here. The other factors mentioned on the questionnaire are such factors. The danger involved explains why steeple-climbers get more than other occupations involving an equal amount of skill. The regularity of the work accounts for the difference in the wages of the seasonal trades and the year-round employments. Again, chance of success or advancement explains why a particular worker will enter one trade or another. Likewise with the agreeableness or disagreeableness of the occupation. Nothing fundamental is involved. Labor organizations and employers' associations may temporarily raise or lower wages in a particular industry. They may determine the plane upon which the factors of efficiency and supply shall operate. The other factors mentioned explain effects, not causes.

L. Barnet

To number the twelve factors in the order of their importance is practically impossible. With the exception of the third and the eighth we think each one may either control or else be a strong contributing factor to the rate of wages under certain conditions.

The needs of the individual or of the family cannot in any properly conducted commercial enterprise be a determining factor in the rate of wages, except in isolated cases where philanthropic considerations have been allowed to control. If this were not the case industry would put a premium on shiftlessness by making the employee feel that society was indebted to him for a living,

not only for himself, but for as large a family as he cared to raise.

The mode or standard of living and the number of workers available appear to be two factors whose operation is dependent one on the other. Where the number of workers is unlimited the mode or standard of living is correspondingly depressed. Where, however, there is a balance between the supply and demand of labor, the mode or standard of living is very apt to be an important determining factor in the rate of wages.

The danger and difficulty of the occupation, the regularity of the work, and the chance of success and advancement, are necessarily factors which control only in a limited number of industries.

As to the organization of the workers, this in skilled trades is an important factor in determining the rate of wages. In unskilled trades, however, we do not think it has ever been of great importance.

So far as we know the organization of employers has in no way affected the rate of wages.

Gertrude Barnum

a. The number of workers available.
b. Organization of the workers.
c. Organization of the employers.
d. Local or trade traditions.
e. The efficiency of the worker.
f. The danger and difficulty of the occupation.
g. The chance of success or advancement.
h. The regularity of the work.
i. The size of the profits.
j. The needs of the individual or of the family.
k. The mode or standard of living.
l. The needs of pin money workers.

George Gordon Battle

All of the factors which you mention seem to me to be important in determining the rate of wages. But under our present

system the rate of wages is governed by the law of supply and demand, except in so far as that law has been modified by:

(a) The organization of the workers, and

(b) The desire of employers, either of their own accord or from the pressure of public opinion, to give such wages as will allow the employee to maintain a reasonably decent standard of living according to modern conditions.

Emma B. Beard

The factors in determining wages with which we are best acquainted are:

(a) Organization of the employees.

(b) The attitude of the individual employer. Recent wage studies in Boston in the candy factories, and in Ohio in the stores, bring this out very forcibly.

(c) The number of workers available in industries where the workers are unskilled and unorganized.

Holmes Beckwith

a. *Efficiency:* This, I believe, *is in the main, the great determinant of individual or group wages.* Care must be used, however, in understanding this word, that too much idealism and social desirability be not read into it. Otherwise stated, it is value (or importance) of service to the purchaser of that service. *The purchaser's judgment may be in error, or the service which he wishes be of positive harm to society,* as in case of services pandering to vice. *Since, however, competition results, so far as competition is free, in the sale of services to the highest bidder* (other advantages of the work than its wage being considered, and also disadvantages), *a wage usually expresses much more than one individual's estimate of the services, and is in some sense a reflection of what may be called "the social mind" and its likes and dislikes.*

b. Demand: One of the two great factors which together mainly cause efficiency, or value of service, to be what it is. *The greater the demand, other things equal, the greater the value of a given service, and vice versa.*

c. Numbers of workers: A coördinate cause or determinant, with demand, of the efficiency, or value of service, of a group or individual. It must be understood that, with reference to any given kind of work, as carpentry, the numbers in question are only those capable of doing such work (technically efficient) and available otherwise.

d. Organization of the workers: Directly, this affects wage frequently, by superior bargaining and superior knowledge of opportunities and of value of service. Superior bargaining power cannot (in absence of labor monopoly, or of rank ignorance of employer) raise wages above value of service to the purchaser, but it can and often does keep them up to such value of service, in the face of changes of price level, demand, etc., which might cause wage paid to be less than value of service stated in money. Organization of workers often increases value of service by increasing technical efficiency, through stimulus to sobriety, to industrial education, etc.

e. Local or trade traditions: If competition were perfect, wage would equal value of service (which always means value of service of the marginal man or men). It is not perfect, however, because of ignorance, difficulty of movement of workers, etc., etc. In the face of such facts (economic friction), local or trade traditions, which represent past adjustments, continue and determine wages directly, or influence them markedly.

f. Size of profits: Influences demand for labor. This influence might be said to be through its effect on prospective profits. These two factors might be given importance coördinate with (d) and (e). Size of profits may sometimes influence value of service in this sense,— that if profits be high, it may pay to hire a better grade of labor for that establishment, it being technically more efficient.

g. Cost of preparation: Includes all difficulties in preparation. The greater the costs and difficulties, the fewer will reach the trade.

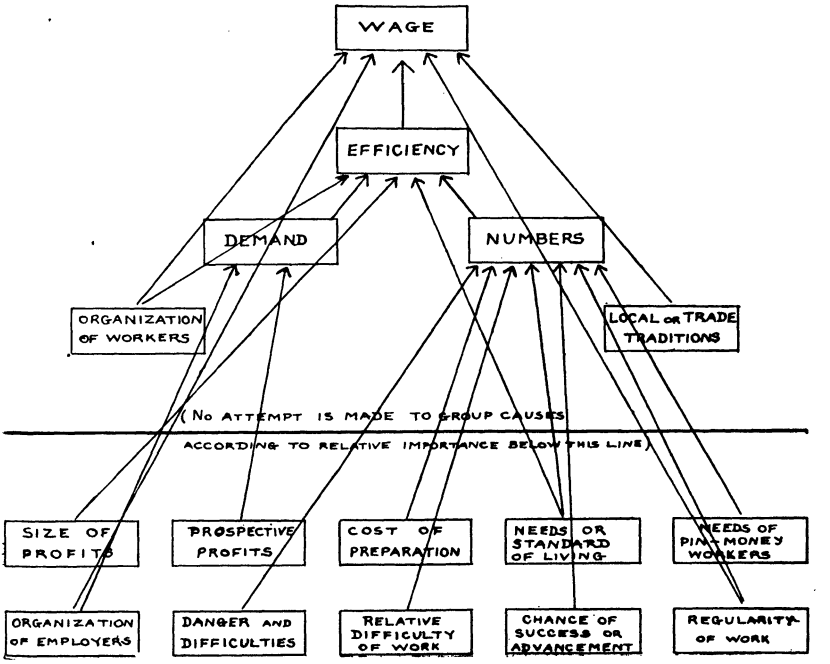
h. Needs, or standard or living: Much the same thing, and have like effects. Their chief effect is through numbers, and this effect it takes a generation to show. The higher the standard of living the more likely is limitation of family to ensure the attainment or continuation of a plane of living corresponding with this

standard. A lesser effect is on economic efficiency or value of service, through stimulus to the attainment of technical efficiency, by industrial education or otherwise.

i. Needs of pin-money workers. Of slight importance. Those needs merely increase numbers in some trades.

j. Dangers and difficulties: might be enlarged to be Net Attractiveness or the reverse of the work. So far as free to choose, workers choose that work whose total attractions are greatest to them. Wage is one, usually the most important single element. The greater the attractiveness to workers (accurately speaking,—to the marginal workers in the trade in question) the less will be the wage in that trade, and vice versa. All this not as judged by outsiders, but by the men choosing. That work which requires qualities which but few possess will have fewer workers, and this will affect their wage favorably, and vice versa.

k. Organization of employers: By fighting tactics, opposing unions and their strengthening of workers' bargaining power, and



otherwise, employers' organizations can often be enabled to pay wages less than the economic efficiency of their workers, or value of their services. This cause is perhaps coördinate with (d) and (e).

l. Regularity of work: To be considered in connection with wage per day, week, etc. Affects numbers who choose a given occupation, or may be considered to affect wage directly, in the sense of daily or weekly wage when employed, and not in the sense of average yearly earnings.

Harry Best

a. The number of workers available.
b. The efficiency of the worker.
c. The size of the profits.
d. Organization of the workers.
e. Organization of the employers.
f. Local or trade traditions.
g. The regularity of the work.
h. The mode or standard of living.
i. The needs of the individual or of the family.
j. The needs of pin-money workers.
k. The danger and difficulty of the occupation.
l. The chance of success or advancement.

I do not think "j" (the needs of pin-money workers) is a very important factor, at least in the city of New York. The matter of supplementing the total wages of a family is a quite different thing; and the question of the inter-relation of wages of various members of a family in a family budget is deserving of considerable attention. Ability to speak English; the presence or absence of one's immediate family, including the question of whether a worker is living alone; the age at which school attendance was discontinued; the opportunity of learning a trade; and the use made of such opportunity — these are some other factors which are not to be neglected.

Roy G. Blakey

In so far as competition among employers and employees is free, and in so far as laborers can easily change from one location to

any other and from one occupation to another, wages tend to approximate the value of what they produce. To put it in another way, what one laborer receives, or what a group of laborers receive if they combine and have to be employed as a group or not at all, tends to approximate the net amount they add to the employer's returns. He can not pay the individual laborer, or the group if all work together, much less than this, for in that case a competing employer would pay them more than he would.

The needs of his family or his standard of living does not have just the kind of influence that most people think. His employer pays him for what he produces for him and not for what his family consumes or needs. In one sense, the strictly business sense, his family needs and standard of living is a matter with which his employer is not concerned directly. It is true that few employers are without sentiment and his needs (if the employer knows him personally) may cause him to be considerate and employ him rather than some single fellow who is more efficient but whose needs are less. A better standard of living may make the laborer somewhat more efficient, and hence produce a greater output-value, and in this way have a favorable effect upon wages; but this is not very important after the point of ordinary necessaries of life is reached. Furthermore, laborers with high standards of living may hold out more rather than take a reduction, and thus prevent reductions in cases where the employer does not have to make them; but if wages are higher than the value of the output, he will have to cut them or shut down to avoid bankruptcy in spite of all standards of living.

A high standard of living may affect wages in another important way. Most people dislike very much to go below any standard they have once become accustomed to, even though they may at one time have lived very modestly indeed. Rather than risk such reduction, they have fewer children and maintain their standard. These few children they can educate and accustom to high standards and they are likely to be efficient and thus receive high wages or salaries instead of falling into the large class of unskilled where wages are low (that is, where the value of the product of the marginal laborer is low, and hence, wages low). This limitation of the birth rate would probably result in much higher wages in the

United States in the course of a generation if there were no immigration.

If the employers combined, if they formed an absolute monopoly they could fix wages at any point they wished, however low, if they could and would stand out without compromise for the best terms — that is, if they had a reserve upon which to live for a good while and the workers were not so situated, as is sometimes the case. Strike benefits overcome part of this difficulty for the workers. Of course, if laborers were not paid enough to live, they would gradually die off and that would fix a limit to the low wages the employer could afford to pay in the long run. Though employers often have tight combinations, exceedingly tight agreements seldom are stood by.

As to regularity of work, and danger and difficulty: Insofar as these drawbacks are foreseen and hence the number going into these occupations lessened, the marginal product is kept greater and there tends to be higher wages in these occupations. But there is a tendency for laborers to under-estimate risk and irregularity of employment, and hence wages do not tend to be as much more as they should be to make up for risk, particularly if they do not require much preparation to enter.

E. W. Bloomingdale

There always has been, and there always will be, a divergence between the wages the employer is willing or able to pay and the compensation the employee desires or can demand for his labor. To the former, the question is: How can I afford to pay with advantage to my enterprise? To the latter: How much can I get, regardless of whether the enterprise is, or will continue, successful or not? Nor is the term: "How much can I afford to pay" a mere euphemism for: "What is the least I must pay." No employer can fix the rate of wages. It is true he can name the amount he is willing to give, and perhaps he can fill his establishment with those willing to accept his terms; but invariably those who are, or those who become, efficient will demand a higher wage in due course and receive it, or they will look elsewhere for opportunity to obtain an adequate return for their labor.

I should separate the twelve factors which have been suggested

as answers to the above question from your questionnaire as determining the rates of wages of groups of works, into two classes, namely:

1. The efficiency of the worker;
   The mode or standard of living;
   The number of workers available;
   The size of the profits.

I believe these four factors influence employers in estimating the value of the service demanded, though I do not think it necessary to give much attention to mere size of profit as an element in the fixing of wages.

2. The needs of the individual or of the family;
   The needs of pin-money workers;
   The danger and difficulty of the occupation;
   The chance of success or advancement;
   Local or trade traditions;
   Organization of the workers;
   The regularity of the work.

These I believe are wholly matters for the consideration of employees, either in the mass or as individuals.

The remaining suggestion, the organization of employers, I discard altogether. I do not believe it could be a permanent, or even a temporary, factor of importance, and this opinion is based on an experience of many years.

I do not think it necessary to give much attention to mere size of profits as an element in the fixing of the individual wage. This is especially true in those lines of business which can be conducted in large volume with relatively few employees, or in which special qualifications are required, as for example commission houses, offices of large corporations, jewellers, decorators, specialty merchants and the like. Here the item of wages is of comparatively small importance and is regulated usually by the personal equation. A few dollars a week to each of a few employees makes but little impression on the profits of the business.

R. M. Bradley

a. The number of workers available.
b. The result of the mode or standard of living.

The basic cause, affecting the general level of wages and living standards among the wage earners of the United States, is the enormous increase of the ocean transportation interest, with accompanying improvement and cheapening of transportation facilities for immigrants. It is this that differentiates our own time from preceding periods.

In this transportation business many hundred millions of invested money are now at stake, and its vast fleets must be supplied with a constant stream of steerage passengers if owners are to escape loss under present financial adjustment. The result of this has been the creation of an army of agents spread throughout Europe and Western Asia, whose livelihood depends upon sending a continuous stream of immigrants into the American labor market. With this system in full action, it can safely be said that in our present day the small cost of transportation impeding the immigrant's coming is a lesser force than this force that urges the immigrant to come, regardless of any benefit that he himself may derive from coming.

The fact that this labor supply has in it much material for good citizenship has nothing to do with the bad effect of its mere abundance upon all laborers. No one would claim that if only you have good enough wheat you cannot break the market with an indefinite supply, and yet we hear constantly the sententious claim that we cannot suffer from too many good laborers.

Thus, in numberless places within easy reach of our immigrant stations, we see the workmen's standard of living reduced below what is a proper American standard, and within these zones we are now founding immense industries, the continued existence of which appears to depend upon the continuance of this low priced labor market, and the maintenance of an un-American standard of living among their workers.

Edgar D. Brinkerhoff

a. The size of the profits.
b. The regularity of the work.
c. The danger and difficulty of the occupation.
d. The chance of success or advancement.
e. The efficiency of the worker.
f. The mode or sttandard of living.
g. The needs of the individual or of the family.

h. The needs of pin-money workers.
i. Local or trade traditions.
j. The number of workers available.
k. Organization of the workers.
l. Organization of the employees.

These factors have more or less influence in special cases; but if the general level of wages were high, you would not bother much about the special cases, as they would largely right themselves. Except one, the above twelve factors have little to do with the general level of wages. The one factor that is responsible for the prevailing rate of wages is the size of profits.

J. L. Burritt

Wages with us have been determined almost entirely by the efficiency of the worker and the size of our profits. The only other elements mentioned by you that have in any way influenced our rate of wages have been the difficulty of the occupation and the regularity of the work.

Henry L. Calman

We believe that wages are mainly determined by the minimum cost of living, the number of workers available in any particular occupation, and, of course, the regularity of the work.

Charles L. Chute

a. Competition.
b. The number of workers available.
c. Organization of workers.
d. Organization of the employers.
e. The efficiency of the worker.
f. The needs of pin-money workers.
g. Local and trade traditions.

Victor S. Clark

(1) { The efficiency of the worker.
The mode or standard of living.

(2) { The regularity of work.
Organization of workers.

(3) { Organization of employers.
Danger and difficulty of the occupation.
Needs of pin-money workers.

Speaking from observation of comparative conditions in different countries, I should say that those marked " 1 " are primary influences in determining the rate of wages. The efficiency of the worker and his standard of living both affect the prosperity of industries and are antecedent causes to other conditions. In countries where labor is efficient and the standard of living high, so far as I have observed, the rate of wages is usually high, whether the workers are organized or not; but in such countries workers are apt to be organized.

In the second class I have placed trade unions and regularity of work, as I have observed that union labor is usually better remunerated than non-union labor, and that the annual earnings of workers regularly employed in most instances exceed those of workers irregularly employed.

In the third group I have placed organizations of employers, which seem to me less effective in influencing wages than organizations of workers. The chance of advancement and the danger and difficulty of an occupation may be important factors in particular trades, but do not seem greatly to affect the general wage level of all labor. Wages are highest perhaps where the chances of advancement are most numerous, and they are lowest in some of our most dangerous occupations, especially if we include occupational and industrial diseases. The needs of pin-money workers determine wages in certain occupations, but not the general compensation of large groups.

Miles M. Dawson

Chiefly, in my opinion, the standard of living and the organization of workmen. Undoubtedly, back of the standard of living, are the needs of the individual and the family (which markedly affects wages in occupations which women seek, because they do not usually have such burdens upon them), and the means which render it possible to pay the wages are the scale of prices of the commodities determined by competition in the markets. The chief factors, as stated, are " the mode or standard of living " and " organization of the workers." The " regularity of the work " in certain seasonal occupations causes the scale to be considerably increased so as to provide in part for periods of idle-

ness. "The needs of the individual or of the family" are the basis for "the mode or standard of living" and as such are effectual; but the needs of a particular individual or of a particular family have little effect or none, except sometimes to cause the workman to accept much less than he actually requires rather than not be employed at all. Undoubtedly, as regards some trades where the need of minimum wage legislation is greatest, "the needs of pin-money workers," that is, of workers who are in part supported by parents or other members of the family, tend to lower the wage below the living point. I have made considerable investigation of the matter and am of the opinion that "the danger and difficulty of the occupation" has very little to do with wages. Some of the most dangerous and hardest occupations are the most poorly paid. However, when there is excellent organization this may be made a ground for a demand for good wages, such as ought really to be paid. "The chance of success or advancement" and "the size of the profits" have very little to do with the wage scale, though the former does occasionally depress wages and the latter sometimes increases them.

"Local trade traditions" occasionally have a good deal to do with fixing wages, but, on the whole, not much, except when enforced by trade agreements through organizations of workmen. "The number of workers available" usually does not affect the wage scale materially, but occasionally, in times of great unemployment, it does add to the distress of workmen by driving wages below the living point, in addition to leaving great numbers unemployed. In my opinion, "organization of the employers," while often intended to depress wages, is usually not very effective in that respect.

Carroll W. Doten

I have given a good deal of attention, first and last, to the wage problem, and may say at the outset that no theory of distribution in the text-books has proved entirely satisfactory to me in the the matter of the ultimate determination of wages. You are doubtless acquainted with the various theories that have prevailed, and especially with the latest one, known as the "marginal productivity theory." I have talked with a number of people

who have had the matter of determining wage controversies in charge in this country and in other countries, and I never found that this marginal productivity theory, or any other general theory proved of much assistance in the determination of any specific controversy.

Your questions of course are much more specific and cannot be answered by any theoretical formula. Taking your first question, which has under it twelve suggested sub-questions, I may say that some of these sub-questions apply to individual workers and some to groups, or classes of workers. There is no question in my mind but that each one of the things that you mention has some effect upon the wages of the individual, but I do not believe that any one of the points which you mention is fundamental, or in any sense universal in its application, except possibly the first, namely, the efficiency of the worker. To my mind there is no doubt that the efficiency of the worker is an element in determining his wage under practically every system of wage contract. It sometimes seems as though it had no special effect where the union is in absolute control, and where a uniform wage scale prevails, and yet even here I feel that in the long run the efficient worker will be given more regular employment and will therefore earn a larger yearly wage.

It would take too long to discuss the details of the other influences which you mention as affecting the rate of wages. The needs of the individual, or of the family, may work either way. In some cases they tend to make the laborer offer his services for anything that he can get; in other cases they may induce him to seek and find better terms of employment. The pin-money workers may, in certain cases, for short periods, like other subsidized laborers, keep wages in the occupations where they compete abnormally low, and in some rarer instances, they may practically dominate an industry if it is limited territorially, or in the amount of its product. The mode or standard of living has its effect upon wages in several ways; a high standard, of course, tends to make laborers more efficient and energetic, both in the performance of their labor and in the making of labor contracts. Aside from this, perhaps its only effect is that which the old economists have attributed to it of preventing too rapid an increase in population, and therefore of the labor supply.

So I might go on with the other sub-heads under question one. In general, I may say that I believe there is some discounting of danger, irregularity, chance of success, etc., in wage contracts, whether individually or collectively made; but usually the discounting is at too low a rate and the added compensation is inadequate for the risk involved. I believe the organization of workers has without doubt tended to increase wages. It is impossible, however, to demonstrate this satisfactorily. On the other hand, the organization of employers probably has retarded the advance of wages. The size of profits has no necessary connection with wages paid, but it is noticeable that where profits are large, under monopolistic conditions, particularly, wages are usually high and working conditions satisfactory.

Elizabeth Dutcher

a. Local or trade traditions.
b. The number of workers available.
c. Organization of the employers.
d. The needs of pin-money workers (in some trades).
e. Organization of the workers (where there is strong organization).
f. The size of the profits.
g. The efficiency of the worker.
h. The mode or standard of living.

It seems to me that, in trades where there is no strong organization of the workers, local or trade traditions are the strongest factor in fixing the wage rate. It can be shown, for instance, that wages of clerks are low, even where the number of such workers available is not large. Among native American workers my experience is that the standard of living adapts itself to wages, in particular instances; not wages to standard of living. This statement is based on personal observation of the different standards of printers in New York and Philadelphia, in the days when Philadelphia was a non-union city for printers, with wages little more than half of that of the strongly unionized printers in New York. Yet it is doubtless true that wages *as a whole* in America reflect, somewhat dimly, American standards, when they are compared to European wages, as a whole.

George Eastman

a. The efficiency of the worker.
b. The number of workers available.
c. The mode or standard of living.
d. Local or trade traditions.
e. Organization of the workers.
f. The needs of the individual or of the family.

Sarah Elkus

a. Efficiency of the worker.
b. The number of workers available.
c. The danger and difficulty of the occupation.
d. The irregularity of the work.
e. A chance of success or advancement.
f. The size of the profits.

Eliza P. Evans

In the case of the person capable of making her own bargains, adapting herself to new and changing conditions and capable of pushing herself ahead, I believe efficiency and personality count almost entirely.

But, when one is considering the large mass of working women (I believe this applies to men also, only in a more limited sense), efficiency is only one small factor. The number of pin-money workers affects wages to a very large extent in mercantile and telephone and to some extent in office lines. The opportunity for advancement beyond a wage that would cover the cost of decent living is a very important factor. The organization of the employers accompanied by the trade traditions is the most important factor of all.

Employers will hire help as cheaply as possible, regardless of profits, cost of living, etc.; and the younger, less experienced and more illiterate the supply for their particular labor market is, the more plastic the laborer is in the hands of the employer. The need of the average family for all the income it can get forces the girl to take whatever employers are willing to give her. I find the general level of wages to be very uniform, particularly in the larger communities where the employers are well organized. Where all employers adopt this unfair method of making wage contracts, wages are bound to be low. This proves true

even where the supply of labor is limited, for employers do not generally offer larger wage rates in order to obtain more employees.

The fact that low wages are so nearly uniform in most lines of industry encourages the square peg to stay in the round hole. One result to be hoped for from minimum wage legislation is that as employers begin to consider the efficiency of the individual worker more women will be forced to find employment for which they are best fitted. Under present industrial conditions any woman, unless she is mentally defective, will serve as a human machine. Employers are very slow to realize that well paid, well fed human machines will turn out per capita more wealth than will poorly fed and poorly paid human machines.

And lastly the fact that woman does not consider herself a permanent factor in industry complicates her problem and gives the employer a very good argument for low wages.

Joseph Frey

a. The number of workers available.
b. Organization of the workers.
c. The mode or standard of living.
d. The efficiency of the worker.
e. The needs of the individual or the family.
f. The regularity of the work.
g. Local or trade traditions.
h. The size of the profits.
i. The danger and difficulty of the occupation.
j. The chance of success or advancement.
k. Organization of the employers.
l. The needs of pin-money workers.

C. E. Gardiner

The suggested factors determining rates of wages may be grouped as follows: we have numbered the groups for convenience of reference and have arranged the groups in what we conceive to be a logical order, and we have added one factor to the last group.

1. { Needs of the individual or the family.
   { Needs of pin-money workers.
   { Mode or standard of life.

2. Regularity of work.
   Chance of success or advancement.
   Danger or difficulty of the occupation.

3. Local or trade conditions.
   Number of workers available.
   Efficiency of the worker.
   Organization of the workers.

4. Organization of the employers.
   Size of the profits; and
   Attitude of the employers toward the claims of labor and its organization.

GROUP 1. *Needs and standard of life.*—This may be regarded as representing "bed rock" in the sense that the labor will not continue to be supplied unless these conditions are fulfilled; but they are in themselves variable and elastic and would seem to operate rather in maintaining than in fixing rates of wages. For international comparisons the standard of life is very important.

GROUP 2. *Regularity, opportunity, danger.*— The wage conditions in this group depend largely on the period of employment considered; whether by the week, the year, or the life. Regularity compares the week with the year or longer period. Danger and chances of advancement are life questions. The longer the view demanded, the fewer the men likely to take it. It thus constitutes "a difficulty," and should be considered with other characteristics which affect individual success.

GROUP 3. *Trade conditions.*— Starting from the general considerations of group 1, the number of workers available, their efficiency and organization are the determining factors of wages for each occupation at any time or place. But this is always subject to limits. The trade may leave or change its character; the men may leave or their organization may break up.

GROUP 4. *Employers' questions.*— The existence of each trade and the opportunities of its development depend practically on the initiative of and management by the employers. Its success (not to be measured by the "size" of its profits) and the success also of the workers operating under the conditions of group 3, will depend on the maintenance of good relations between employers and employed.

W. A. Garrigues

Your question is a very broad one and only a general answer can be given. There are, of course, exceptions, but based on our experience and observation the factors most largely determining rates of wages are the efficiency of the worker and the amount of profit arising from the business conducted. All of the other factors suggested in your circular letter probably have some slight bearing on the question, but in our opinion their influence is comparatively insignificant.

F. H. Gilson

a. The needs of the individual.
b. The efficiency of the worker.

William P. Gone

a. The efficiency of the worker.
b. The number of workers available.
c. The regularity of the work.
d. The chance of success or advancement.
e. The danger and difficulty of the occupation.
f. Local or trade traditions.
g. The size of the profits.
h. Organization of the workers.

Wages are determined in substantially the same manner as are prices of commodities, and all the elements which enter into the determination of price of commodities are present in determining the rate of wages. I am aware of the fact that this view is not as widely held as formerly, and that it is in certain aspects unpleasant to believe. If it is true, however, it will be as difficult to influence permanently, and seriously, wages, as it has been to fix prices of commodities by the same method. This does not, of course, apply to industries which are operated by the government or are natural monopolies. To believe that the needs or wants of the wage-earner are the controlling factors, is similar to the belief, seriously expressed, that the selling price of land was responsible for the prices obtained from cultivating it. In other words, in both cases, the effect is mistaken for the cause.

Bolton Hall

Some of the suggested factors are practically duplicates — "the needs of the individual or of the family" and "the needs of pin-money workers" are not greatly different. "The chance of success or advancement" and "the size of the profits" are equally the same. "Local or trade conditions" is only a subdivision of the following one — "the number of workers available."

W. R. Heath

The Standard Dictionary defines wages as "Payment for services rendered." This in general must be the definition, and will serve as a guide in considering the 12 factors suggested. I cross none of these out for the reason that they are all important. Some are important because they are factors, and others are important for consideration because they have nothing to do with the subject of wages. That "The laborer is worthy of his hire," I take to mean that the laborer is worthy of his living, and this is in my judgment the most important factor in determining the rate of wages to be paid to a person of average efficiency in any department of labor.

Organized society not only requires that a worker should live so that he will have the physical or mental strength to perform his work well, but that he shall also live in such a fashion as to promote the social order and perpetuate his race. Therefore, a man's wages for satisfactory work performed should be an amount sufficient to support himself, his wife and a family of three children in the average state of comfort of people of his class, and in such a way as to promote the public welfare. This I should say might well be considered an ideal minimum wage for a man working under our present state of society. With this in mind I will notice briefly the factors suggested.

a. The efficiency of the worker. Certainly this is an important factor. A poor worker or a ne'er-do-well has no right to a living from an industry. He is entitled only to as much as he can earn. A person of high efficiency is entitled to more pay than I have indicated as the ideal minimum wage.

b. The needs of the individual or of the family. I have mentioned three children in suggesting an ideal minimum wage, as-

suming that this is the average family. An industry should not be expected to support eight or ten or twelve people in exchange for the labor of a single individual. He is paid wages not because he has a large family but in payment for services rendered.

c. The needs of pin-money workers. There should be no pin-money workers. Every worker should be taught to comprehend the dignity of work, the honorableness of work and the desire to make his life count.

d. The mode or standard of living. No industry should be expected to meet in wages the requirements of an extravagant pace set by a worker, nor should the industry be justified in paying what will support slovenly living.

e. The danger and difficulty of the occupation. Certainly extra hazard would influence wages upward, and no compensation law should be expected to prevent this. The difficulty of the occupation in so far as it requires a higher order of intelligence would also affect wages upward.

f. The regularity of the work. Temporary or intermittent work and transient employment must be at a higher rate.

g. The chance of success or advancement. I do not think the subject of wages can be considered without the classification of industries, and in my judgment industries offering opportunities for marked advancement will require but little attention, and perhaps need not be the subject of investigation by the State Commission.

h. Local or trade traditions. No doubt local or trade traditions will always influence to some degree the rate of wages. Ideally they should not, and in my judgment do not, concern an investigating commission.

i. The number of workers available. There will always be from time to time local conditions producing either an over-supply or an under-supply of workers. Where there is a scarcity of labor, wages must always tend upward, and will go to a point sufficiently high to overcome the inertia of the worker, and while perhaps ideally an over-supply of labor should not affect the wage scale, in the economy of things the conditions in the over-supplied community will cöoperate with conditions in the under-supplied community to overcome the inertia.

j. Organization of the workers. The organization of workers will influence wages upward.

k. Organization of the employers. The organization of employers will influence wages downward.

l. The size of the profits. The size of profits economically should have nothing to do with the rate or scale of wages paid, unless large profits are enjoyed or small profits suffered by all industries of the class alike, in which case wages would be influenced upward or downward as the case might be. There is, however a loyal human spirit running through every properly conducted industry, which gives liberal measure gladly in good times, and which inspires sacrifice gladly on the part of the worker in hard times. This sort of spirit should be encouraged by all our laws.

Leo Hirschfeld

a. The efficiency of the worker.
b. The regularity of the work.
c. The size of the profits.
d. The mode or standard of living.

Mary Alden Hopkins

a. Organization of the workers.
b. The number of workers available.
c. Local or trade traditions.
d. Sex of employee.
e. Organization of the employers.
f. Child labor.

In laundry work, unskilled factory work, some mercantile establishments, and home work, efficiency has little and often no effect upon wages. If length of service be any test of efficiency, the following cases from my note book, may illustrate this point:

A girl employed as caretaker in the employees' coat room of a large department store for 14 years received $5 a week. She was then raised to $6.

A woman who had worked 30 years in one department store received $7.

A woman employed in drug department of a department store, because she knew Latin, was receiving after a service of 4½ years, with one day's absence, $8 a week.

The needs of the individual do not raise wages: The woman in the drug department was the sole support of a sick mother and a sick sister.

A widow with 4 young children, working in a small retail store, received $5 a week.

The pin-money worker does not exist. In all my home work investigating I found just one women doing work for pin-money and she was receiving 75 cents a dozen for bead bands for which the other women were reciving 50 cents a dozen.

A crochet-slipper manufacturer asserted that his work was chiefly done by "ladies" for "pin-money," I had called upon all his workers and found them all Italian women and children.

The standard of living does not raise wages, except in the indirect way that a woman with a high standard of living makes a strong effort to get into better paid work, while one with a low standard more naturally gravitates toward low-paid work. The standard of living determines the choice of a job, rather than influences the rate.

If *difficulty* means severity of work, it is obvious that the hardest women's work is the lowest paid. In the laundry the "shakers" have the heaviest work and receive usually $4 a week. Scrubwomen are notoriously underpaid.

Home work is the most irregular of work, yet when work is given out, the worker averages only two to six cents an hour.

In unskilled factory work and home work no chance of success or advancement exists. In mercantile establishments the chance of advancement is for the exceptional girl and not for the average.

Whether or not the wages increase with the profits of the business depends upon the policy of the owner. In a department store where I was told by girl after girl how wages had been reduced by discharging $10 saleswomen and hiring $6 new ones, I was informed by one of the bookkeepers that in the previous year the *profits* of the store had increased one-half million dollars. On the other hand, almost directly across the street was a store where the manager was raising wages in proportion as business increased, upon the theory that higher wages meant better service and more business.

Home work — children's knit caps, Irish lace, etc.— work to be later sold by Fifth Avenue shops, was paid for at the same rate as that sold by lower priced shops.

Howard C. Hopson

It is practically impossible to give a proper ranking to the respective factors, considering wage workers as a whole. In some industries, such as among railroad men, organization of the workers is undoubtedly the most important factor. With common day laborers employed on contract work, the number of workers available and local or trade conditions and the amount required to sustain life are important. With skilled workers such as carpenters and journeyman plumbers, local or trade conditions, the standard of living and the organization of workers are important. Among the higher classes of wage workers, namely, foremen and others of that sort, the most important determining factor is probably the efficiency of the worker; whereas in highly skilled trades the efficiency of the worker has practically no effect whatever upon the wages paid, but is merely determining as to which employee shall be dispensed with in slack times.

F. Lincoln Hutchins

In considering such questions, as you propound, is there not a tendency to forget basic principles in the maze of details crowding the present stage of commercial activities?

When we stop to consider that the community is the real employer, that, in its unscientific manner it is seeking satisfaction of its demands (through self-appointed agents) exactly as the prehistoric savage sought the same thing through his sole effort, we can see that an individualistic view point is bound to lead to misconceptions.

Entrepreneurs are only self-appointed servants of the community, and were it not for misguided legislatures conferring monopoly rights and special privileges upon a few, the play of the natural law of supply and demand would regulate the service and the compensation therefor, and your present inquiry would not be thought of.

Wages are a very modern method of distributing the value contributed by individual human effort, and must be condemned from the view point of equitable reward for service given, or product

resulting from the effort expended. Sooner or later there must come a method of reward based upon service to the community.

Realizing that the present problem is not postulated upon ideal or reformed methods, but with principles as the back ground, I answer your questions as follows:

Demand and supply must be the only real factor in rate of wages under present conditions.

Demand is regulated by the prospect of profit to be obtained upon the product of the individual, or upon the rate at which that product may be sold. The normal tendency is to pay up to the limit which will yield an average return upon the product. In this element comes the efficiency of the worker; local and trade conditions; and size of profits.

Supply depends upon number of workers available for the particular occupation. This supply is affected by psychological conceptions of the needs of the individual or his family; modes and standards of living; chance of success or advancement; danger, difficulty and disagreeableness of the work. It is very materially affected by workers' organizations when they attempt to limit the number available for any occupation, or to reduce the quantity of product of each worker.

Organizations of both employers and employees are simply efforts to defeat or modify the action of the natural law of supply and demand — the employers to limit demand, the employees to limit supply.

Belle Lindner Israels

a. The number of workers available.
b. The regularity of the work.
c. The efficiency of the worker.
d. Local or trade traditions.
e. The size of the profits.
f. The mode or standard of living.
g. The needs of the individual or of the family.
h. Organization of the workers.
i. Organization of the employers.
j. The danger and difficulty of the occupation.
k. The needs of pin-money workers.
l. The chance of success or advancement.

W. T. Jackman

a. The mode or standard of living.
b. Organization of the worker.
c. Organization of the employers.
d. The number of workers available.
e. Local or trade traditions.
f. The danger and difficulty of the occupation.

In this state (Vermont) a large number of the workers are foreign-born, and the mode or standard of living is, doubtless, one of the chief, if not the most important, of the factors which determine the wages paid. The fact that they can live upon a small remuneration has depressed the rate of wages for all. But the nominal wages are rendered still lower, in the case of some mills, by the fact that the mills close down occasionally for weeks or months at a time, thus throwing out of employment those who have no other means of subsistence. The organization of the workers here does not have very much effect, nor does the efficiency of the worker. In the majority of instances the wages paid are the lowest that can be forced upon the men and women. It would seem as if some of our mills, which are merely branches of the large corporations, were employed or discontinued as a sort of regulative agency to equalize the supply and demand of the finished product. The strength of the employers overshadows that of the employees, for there are always workers in abundance ready to be engaged.

Alvin S. Johnson

a. The efficiency of the worker.
b. The number of workers available.
c. The needs of the individual or of the family.
d. The mode or standard of living.
e. Organization of the workers.
f. Local or trade traditions.
g. The danger and difficulty of the occupation.
h. The regularity or the work.
i. Organization of the employers.

In the long run, the most important influence in determining wages is efficiency of the worker, if by efficiency is meant, not mere physical strength and skill, but capacity to produce a result

of value to the employer. Such capacity must be viewed in the light of the number of laborers available. Where the number of laborers is excessive, as in certain branches of the needle trades, high physical efficiency is equivalent to very limited economic efficiency.

The needs of the individual or of the family, in so far as they are effective in determining wages, operate through the customary mode or standard of living. They are important as fixing a minimum below which wage contracts will not be made. Also, they may be of importance in controlling the supply of labor, operating to discourage immigration into a region where "cost of living" is met with difficulty. Further, they may strengthen the tendency to organization. It is easy to exaggerate their causal significance. The Japanese on the Pacific Coast, although their standard of living is low, are shrewd bargainers in the labor market and receive wages not perceptibly lower than those of workers of equal efficiency but having higher standards.

The mode of living, if it is taken to include all the conditions of housing and nutrition, education of the children, etc., must in the long run have a powerful influence upon efficiency. High standards of living, based upon high wages, have generally been found to be productive of efficiency (as measured in low unit costs for labor).

Organization of workers, in special fields, has greatly affected wages. It can not, however, be said to be the chief force controlling wages, since organized labor is still in a minority. Periods in which organizations succeed in forcing wages up are usually periods of prosperity, when wages of unorganized laborers also rise. Organization, except in a narrow range of trades, appears to operate chiefly through forcing, at an early date, advances that would be made later in consequence of industrial causes, and through protecting the weaker workers against especially unfair conditions.

Local and trade conditions are important, in the absence of organization, in fixing limits of bargaining.

Danger and difficulty are important only where they appeal sufficiently to the popular imagination to deter men from entering the occupation. The case appears to be infrequent.

Regularity of work has a bearing upon daily wages, but not much bearing upon yearly wages. In some trades the possibilities of unemployment appear to be overestimated; in most, they are probably underestimated.

Organization of employers plays a part, apparently, in only an inconsiderable field. Tacit and traditional agreement among employers, not to bid up the price of labor, is more important.

E. M. Keator

a. The number of workers available.
b. The efficiency of the worker.
c. The mode or standard of living.
d. The danger and difficulty of the occupation.
e. The chances of success or advancement.
f. The organization of the workers.

These are all embraced within two natural laws which no legislation can abrogate — the law of the survival of the fittest and the law of supply and demand. Organized labor has, perhaps, tended to modify the law of the survival of the fittest by bringing all employees on the same level — the best worker not being allowed to make more than the poorest; but that is about to be cured by the advent of trade schools. These, no doubt, will produce workmen who will be able to sell their skill in accordance with the efficiency of that skill and unhampered by any labor union. The law of supply and demand will always work.

In my own particular specialty — round boxes — it is almost impossible to procure workers, as there are comparatively few users of round and oval boxes. The trade is confined to the hat and millinery trade, and in order to get and keep workers one has to pay them well. It is so in every other industry. For many years before I manufactured paper boxes I was in the hat business and I am still in that business; this present factory being only a side line with me. Straw hat sewers are quite scarce, and one has to pay them well to get them. The trade is difficult to learn and only a few take it up. The girls employed in this industry make an average of eighteen dollars a week for a season of nine months, straw hats being made during the winter and the dull season being the summer. They are mostly unorganized, and this wage is determined by the supply and demand.

R. C. Kemmerer

a. The efficiency of the worker.
b. The number of workers available.
c. The size of the profits.
d. Local or trade traditions.
e. The regularity of the work.
f. The chance of success or advancement.
g. Organization of the workers.
h. The danger and difficulty of the occupation.
i. Organization of the employers.
j. The needs of the individual or of the family.
k. The mode or standard of living.

Wilford I. King

a. The number of workers available.
b. The efficiency of the worker.
c. Organization of the workers.
d. Organization of the employers.
e. The regularity of the work.
f. The danger and difficulty of the occupation.
g. The chance of success or advancement.
h. Local or trade traditions.
i. The needs of pin-money workers.

Labor is a commodity and wages are its price. Wages behave like other prices in the market. The value of labor is determined by its ability to turn out products which people value. When labor becomes more efficient it turns out more products and more products have greater value, in most instances, than less products, hence wages rise. Therefore, if laborers work longer hours, or more efficiently, daily wages tend to be higher than when they work short hours and inefficiently.

Training laborers to be efficient tends to make them get better wages. Likewise, eugenic measures, eliminating the incompetent, will gradually raise wages.

Products are only valued when they are scarce. If a product can be made by unskilled labor it tends to be cheap, because unskilled labor is so plentiful. Hence wages are low in such industries — garment-working for example. When products are scarce they have high value. Likewise, when the labor that makes these products is scarce, it has a high value. As a result, when a trade is so hard to learn that few ever learn it, wages are

high in that occupation. Where labor in general is scarce relative to natural resources, wages will be high *e. g.,* in new countries; where it is plentiful, labor will be cheap *e. g.,* China and India. To raise the price of a commodity, if the demand is constant, the supply must be lessened. The demand for the products of labor is practically constant (our wants are always with us), hence to raise the general wage of labor the logical method is to lessen the supply.

There are therefore two ways to make wages higher in the United States, first to make labor more efficient; second, to make labor more scarce. The latter may be accomplished by prohibiting the immigration of laborers, preventing the propagation of the unfit, and reducing the size of families of the lower laboring classes by legal or social pressure. In the United States, the high standard of living limits the size of families as soon as foreigners are thoroughly Americanized; therefore, if immigration is absolutely shut out, the wage problem will virtually solve itself. With unrestricted immigration, no means known can materially and permanently make wages good in the unskilled industries. One might as well try to market brine along the sea shore, with conditions of inexhaustible supply.

George J. Kraft

"The efficiency of the worker" is, in my opinion, the chief if not practically the only factor in determining the rate of wages of individual workers in a factory such an mine, maintained for the past seventy-six years. I do not consider "different groups of workers," the question with me being the earning qualifications of each employee — what each individual is worth to me as a part of the whole force. I might add that all work done in my factory is hand work; I use no machinery.

James C. Kuhn

a. The efficiency of the worker.
b. The danger and difficulty of the occupation.
c. The regularity of the work.
d. The chance of success or advancement.
e. The number of workers available.

f. Organization of the workers.
g. The needs of the individual or of the family.
h. The mode or standard of living.
i. The needs of pin-money workers.
j. The size of the profits.
k. Local or trade traditions.
l. Organization of the employers.

I find it rather difficult to answer as you request. I have one hundred people in my employ, all seemingly contented and happy, although their wages are small, averaging from $6 to $22 per week. They are mostly Italians and recognize the advantages of this country to the experience in their own.

H. P. Lansdale

a. Local conditions and traditions.
b. By the number of workers available.
c. By the organization of workers.
d. The danger and difficulties of the occupation.
e. The efficiency of the worker.

D. D. Lescohier

In my opinion the three fundamental forces which determine the going rates of wages are:

a. The cost of subsistence of the workers in conjunction with the existing standards of living or the standards which have existed in the immediate past.
b. The number of workers available.
c. Local or trade traditions.

Custom, I believe, plays a far larger part in holding wages stationary than we have been accustomed to think, and any employer pays a wage higher than that which he has been accustomed to pay only when considerable pressure is put upon him to do so. It is impossible to separate out these various factors and say this one is the most important and that the next one is the next in importance, because all of the influences which you cite in your list of questions are operating, and other factors also. Under one group of circumstances one or more of these influences will be more important, and under another group of circumstances others will be more important.

We need to separate the wage consideration into three classifications. First, there is what you might call the "going rate of wages for labor," and by this I mean the wage which is paid by all sorts of employers in all sorts of occupations for what we ordinarily call "common labor." This common labor ranges in quality from the mere brute strength of a worker of little intelligence and no special skill to the semi-skilled work of a factory operative. The great majority of wage earners are included within this group, and it is also characterized by being the type of laborers who most easily change from one industry or occupation to another.

Second, there are subnormal wage groups which earn a wage less than this "going wage" for common labor. These groups are either inefficient as compared with the average laborer, or they are weak or ignorant and taken advantage of by their employer. Many of the less intelligent and weaker immigrants, together with the less efficient elements of our own working population, are included.

The third group of workers comprises those who earn in excess of the ordinary rates of wages. This group includes the skilled trades such as machinists, carpenters, etc. In order to make these three groups more specific I will reduce them to terms of money. In this part of the country what we call common laborers earn from $12 to $16.50 a week. Now these are not casual laborers but are men who work in all sorts of occupations — at "jobs" as contrasted with such men as carpenters and machinists who work at trades. These men, who work at jobs, may be working for a couple of years for a meat market and then in a factory, and then afterwards as street car conductors. They take up occupations where the work may be learned in a short time and where a reasonable degree of physical strength and ordinary intelligence, with perhaps a common school education, is all that is required. It is the wage of this group which I would call the normal or going rate of wages; the standard from which the wages of the especially skilled are measured and below which we may speak of wage groups as subnormal groups. There is something wrong when a laborer in Minnesota is unable to earn $12 a week when he is at work.

Now the general forces which determine wages determine the wages of the average laborers of the first group cited. They are selling simple, or what one might call "standard," labor power. Their natural abilities are neither deteriorated by some physical, mental or moral deficiency nor increased by some special skill or training (as occurs in the case of the third group), and the economic forces operative in the market-place work in a more typical manner in their case than in that of the second or third groups. Their wage is determined to some extent by the relative strength of themselves and their employers in bargaining, but a minimum below which their wages cannot go and a maximum above which they will not go seem to be set by factors to which I will refer in a moment. When I speak of the relative bargaining power of the workers and the employers, I mean the comparative advantage that the two have in making a bargain. If the employee is in serious need of work he is forced by his necessities to agree to wage terms that he would not have to agree to if he were not in need of work. If the employer, on the other hand, has unfilled orders which must be delivered and he is short of men he may be willing to pay a higher wage temporarily in order to get men. But the ordinary situation with respect to the labor group we are considering is that there are idle men seeking employment at all times, and the employer ordinarily is at an advantage in having a supply of men to choose from. The individual employee is not only entirely dependent upon his labor for existence, but his earnings when employed leave little surplus for unemployed periods. As soon as he is out of work, therefore, he is at a great disadvantage. It makes a great deal of difference to him whether he gets a job or not, but if there are other men whom the employer may hire it makes little difference to the employer whether he hires this particular man or not. The net result of these facts is that the laborers in general are all the time at a relative disadvantage as compared with employers in general in bargaining over wages, and the employing classes are always able to force the mass of the laborers to accept a wage which is less than the employers could pay, and which is only as high as it is necessary for them to pay in order to keep the laborers alive.

Why then do employers not utilize their advantage to force

wages lower and lower? The worker will refuse, except under most extreme circumstances, to work for a wage which he deems insufficient to provide himself and his family with what he calls the "necessities of life." "Necessities of life" is not synonymous with standard of living. He may have desires and ambitions which enter into a standard of living that would require a higher wage but he will, if necessary, accept a wage that will enable him to provide those things which he considers necessary for the subsistence of his family. At times when there is a very large supply of labor, as compared with the demand for labor, the workman will often temporarily accept a wage less than sufficient to provide this necessary subsistence, but he will not accept this lower wage permanently because he cannot. The needs of existence, therefore, in the long run constitute a minimum which determines the point below which wages in general will not go.

The employer, on the other hand, seeks to keep the wage as low as he can in order to keep down his expenses of production. His effort is to keep the wage as near to this minimum as possible. He steadily resists all movements or forces which would tend to increase the going rates of wages. His effort is to maintain the customary or existing wage standards unchanged unless prices fall for a considerable period of time, in which case he either withdraws from production temporarily, or reduces his output, or reduces wages. If prices go up he attempts to maintain the wage standards that existed before the prices increased, in order to prevent the workman from becoming accustomed to the higher wage rate. From the worker's standpoint we have the rising standard of living continually acting as a lever to raise the wage standard and to make the customary wage higher, while on the employer's side we have the continual effort to pay no more than the existing customary rate and to hold wages down and prevent any increases. The efficiency of the worker enters into the matter of wages principally by causing the individual worker, or the individual groups of workers, who are more efficient to have more regular employment and (if the superiority is marked) to get a higher wage. In other words, efficiency explains the

gradation of wages and the selection of employees, but up to the present time has probably not played a marked part in affecting general wage rates.

I have not been able to see that the dangers and difficulties of occupations play a very large part in determining the wage rates. There is always such a large supply of labor that an employer can ordinarily get men at any time and for almost any kind of work, if he is willing to pay the highest rates of wages. A careful study of wage statistics in Minnesota which we made with this very question in mind did not reveal to us any correspondence between variations of wage rate and variations in risk. (My reference to the highest going rates of wages perhaps requires explanation.) My observations of the wage situation have led me to believe that various employers pay anywhere from $12 to $14 a week for the same grade of labor. Some employers are more liberal than others or less fortunate in bargaining, and there is a slight range in the wages paid for any given type of labor, unless the wage schedule is made uniform by some artificial means, such as a trade agreement.

My observation is that where work is regular the daily wage rate tends to be a little lower, although the annual earnings are higher.

Profits do not appear to me to be of any considerable importance in the determination of wages. Employers raise wages when they are forced to raise them, except in occasional instances, and not when they are able to raise them. Unless the workers know that profits are large and force the employer's hand, profits will have comparatively little effect on wages in general.

Organization of the workers and special skill explain only the wage rates of that group of workers which receives more than the ordinary going rates of wages and has little effect on those groups of workers who might be affected by such a proposition as a minimum wage law. On the whole I do not believe the organization of the employees has been an important force in the determination of the general wage rate, though it has improved the condition of a large number of employees in specific occupations.

Burdette G. Lewis

I do not believe any human being can answer this question with any degree of reliability. In my judgment, the given wage at a given place reflects the general opinion of employers as to what they think each job is worth. There are some hazardous occupations, such as building trades, which have had a higher rate of pay, but I believe that the higher rate of pay is due to the fact that the building trades are thoroughly organized. There are other kinds of employment, such as driving garbage wagons in the city of New York, and delivering coal in the city, which are dangerous and hazardous, but do not command a sufficiently high wage, not because they are any less hazardous but because they have not yet been established as genteel enough professions to require a higher wage.

William H. Lough

There is no real question but that the underlying factor which determines the wages of any individual is his "productivity." I am using this word in a broad sense to include everything that an individual contributes to the welfare of the business. It seems clear that if a man, through his skill or through his ability to supervise others, can add $1,000 to the annual output of a factory, his employer would be willing to pay in the neighborhood of $1,000 rather than lose his services. If his employer is not willing, some other employer will do so.

It is, of course, true that there is no exact measure of the "productivity" of most workers either in plants or in offices. The best that can be done in most cases is to make a rough guess. Custom has established rates of pay for some classes of workers which is really an estimate of the average "productivity" of the men in this group.

While "productivity" is the underlying factor, there are a great many other factors nearer the surface that produce temporary changes in the rates of wages. For instance, either workers or employers may organize and temporarily raise or lower the standard of wages in certain lines. But the effect of this must be harmful either to that industry or to the workers, as the case may be, and will result in cutting down the normal flow either of capital or labor to that industry.

The danger and difficulty of occupation, regularity of work, the chances of advancement, and similar factors, all affect more or less the rate of money wages, but it is easy to exaggerate the influence of these obvious factors.

The needs of the individual or the family and the standard of living of the workers are determined by the wages they receive. In other words, the working of cause and effect is not from standard of living to wages but from wages to standard of living.

One reason why most people in the lower ranks of manual and clerical workers fail to see that their individual efficiency or "productivity" determines their wages is that they do not appreciate the necessity and expense of supervision. It has been well said that everyone pays for the supervision he requires. In other words, a man has to take a lower wage than he would otherwise be entitled to because he cannot be trusted to work honestly and intelligently without having some one over him to watch him.

Benjamin C. Marsh

A careful distinction should be made between the nominal and real rate of wages, which an individual or group of workers receives. Otherwise, the determining factors of one or the other sort of wages will be ignored. This point is made clearer by recognizing the fact that the average family of five persons contributes in taxes $180 a year directly, without taking into account the indirect burdens the tariff tax imposes by raising the price of protected goods. This is conservatively estimated at three times that which is collected at the Custom House. Taxes consume, directly or indirectly, 15 per cent. to 20 per cent. of the earnings of most workers of the country.

So long as we continue taxing the products of labor, including buildings, at the same rate as land values, land speculators will be the chief beneficiaries of the enforcement of the "minimum wage."

I believe that all the factors which you have mentioned operate in determining the nominal wage, *i. e.*, the number of dollars paid to the workers. I believe, however, that the three most important factors are the number of workers available, the organization of the workers, and the organization of the employers.

Unfortunately, neither the efficiency of the workers nor the needs of the individual or the family have much, if anything, to do with determining wages.

David A. McCabe

I do not feel that we know enough yet as to what forces actually do account for a particular modal rate of wages in a trade or locality to strike out any of the suggested factors enumerated in your question or to assign to each its proper relative importance. I take it that you are considering what sets the normal or modal wage in an occupation in a given locality, rather than what causes individual variations in wages above and below the normal wage for that occupation.

George A. McKinlock

The factor that determines the rate of wage that the worker expects and for which he gives his services is his efficiency. In connection with his efficiency come the needs of himself and his family. These needs depend largely upon the mode or standard of his living, and the latter on his moral and spiritual outlook.

G. T. McWhirter

The factors which determine the rates of wages, in order of their importance, are the number of foreign laborers Uncle Sam has played Santa Claus to in order to increase the money coffers of the capitalist, the number of workers available, the danger and difficulty of the occupation, the regularity of the work, the efficiency of the worker, the chance of success or advancement. The rest which have been suggested to you are about equal.

Henry T. Noyes

For our industry (button manufacture) the factors which determine the rate of wages would be somewhat as follows, listed in the order of their importance.

a. The efficiency of the worker.
b. Local or trade traditions.
c. The needs of the individual or of the family.
d. The chance of success or advancement.

e. The mode or standard of living.
f. The number of workers available.
g. The danger and difficulty of the occupation.
h. The regularity of the work.
i. The size of the profits.

Almus Olver

In my estimation the following factors determine the rates of wages in this locality at least, given in their order of importance.

a. The organization of the workers.
b. The efficiency of the worker.
c. The number of workers available.
d. The danger and difficulty of the occupation.
e. The regularity of the work.
f. Organization of the employers.
g. The mode or standard of living.
h. The needs of pin-money workers.
i. The needs of the individual or the family.
j. The size of the profits.

The two factors, chance of success or advancement and local or trade traditions, I have struck out as being unimportant in my estimation.

Alfred E. Ommen

Rates of wages seem to be based on these considerations in order named:

a. Efficiency of the worker.
b. Number of workers available.
c. Regularity of the work.
d. Size of the profits.
e. Danger and difficulty.
f. Mode and standard of living.
g. Chance of success.
h. Organization of workers.
i. Organization of the employers.

In the last analysis, efficiency is the basis of wages. Every man pays for superintendence or is paid for being superintendent by those whom he superintends — the larger the number, the larger his pay.

In so far as the printing industry is concerned, there have been

many strikes which have resulted in the raising of wages, but the profits have not been commensurate with such raise of wages, and the industry is not in as prosperous condition as it was some years ago by reason of this constant attack upon it by what you call "Organization of the Workers."

Edward D. Page

The rate of wages paid to a worker or a group of workers by an employer or a group of employers in any industry at a given time and place is in essence an agreement between individuals or groups of individuals as to a division of the proceeds of the industry. This division adapts the needs of men who desire fixed income to those of other men who desire fluctuating incomes, and are willing to assume the risks of enterprise.

The rate of wages prevailing at any given time or place is by no means the simple product of any one or two or even of a few causes or conditions. On the contrary, it is a complex dependent upon the interaction of many conditions. It is, however, possible, in a way, to classify these conditions into three principal groups, the interaction of each of which upon the others produces the given result. These conditions are:

a. Social.
b. Economic.
c. Psychological.

a. Social conditions. The most important of these is the customary or habitual rate of wages which prevails in the group to which the working man belongs, and which is usual in the industry under consideration. This is by far the most important factor in the determination of wages. It varies but slightly from year to year. Upon it the promotion of new enterprises is based. To pay the customary rate is considered fair: to pay less is considered unfair. It generally satisfies the sentiments of both parties to the transaction if these wages are paid. The rates paid to individuals tend to fluctuate around the customary rate when disturbed by temporary economic conditions. The customary standard of living has a causal influence upon the customary rate.

b. Economic conditions. The principal of these is the inter-

action of competition between workmen for employment and competition between employers for work. This, of course, is influenced on either side by organization in so far as organization tends to reduce this competition. It is indirectly influenced by the number of workmen and by the number of employers, but only when the equilibrium between the work to be done and the size of either of these two groups is disturbed. This disturbance is shown by the margin of unemployment amongst workers, or by the lack of workmen to equip establishments. It is affected by the efforts of unemployed persons to obtain employment and by the extent of their willingness to deviate from the customary rate of wages in order to do so. It is influenced on the other hand by the desire of employers completely to man their establishments and by their willingness to deviate from the customary rate in order to accomplish this result.

c. Psychological conditions. On the workman's side he is attracted or repelled from his job by opportunities of advancement — agreeable conditions of work — the prestige of the establishment — profit sharing arrangements — needs of the individual or his family. On the employer's side deviations from the customary rates are affected by the profitableness of the industry — agreeableness of general business conditions — pride in maintaining business prestige. In both of these situations the wages fixed by custom and competition may be increased or diminished, according to the interaction of these factors.

Maurice Parmelee

1. These factors are so interdependent and so complex that it is very difficult to arrange them in any arbitrary order. Therefore I shall only attempt to separate them into a few groups with some suggestions as to their relative importance. Unless otherwise indicated everything I say applies to the wage problem in a very general way and not to individual and exceptional cases.

First I would group together "The needs of the individual or of the family," "The number of workers available," and "The efficiency of the worker." If we mean by "needs" the bare needs absolutely necessary for existence this is the most im-

portant factor, for wages could not fall below a bare subsistence wage, and this would therefore fix the minimum limit. But if in "needs" we include more than bare subsistence needs, as, for example, things required by a certain standard of living, this factor lessens in importance. The number of workers available is always of great importance, for if there is a superabundance of workers wages tend to fall to a bare subsistence wage, while as the number decreases in relation to the demand wages are necessarily forced up. Efficiency is of great importance in determining the wage of the individual wage earner, for differences between individuals are determined largely by differences in efficiency.

Next I would group together "The chance of success or advancement," "The regularity of the work," and "The danger and difficulty of the occupation." It is difficult to determine the relative importance of these three factors, though the order suggested may be the correct one. These factors are on the whole of more importance in determining individual differences in wages.

Then I would group together "Organization of the workers," "Local or trade traditions," and "The mode or standard of living." It is difficult to determine the relative importance of this group and the previous one. At certain times and places this group has probably been of more importance. This may be true now owing to the organization of the workers. However, in the long run, in the past the previous group may have been of more importance. As to relations within the group the organization of the workers may be of most importance now. Traditions, however, have been of great importance, and are still in certain places. The standard of living has doubtless always been of importance, and may seem of most importance in this group, and perhaps also more important than any factor in the previous group. However, the standard of living is to so great an extent the result of other factors, and therefore dependent upon them, that it is difficult to classify it as a distinct factor.

Then I should group together "The size of the profits" and "Organization of the employers." When there is no organization of workers under a capitalistic system I think that the size of the profits has little if any influence upon wages because the

competition of the wage earners amongst themselves tends to force wages down to a bare subsistence minimum quite regardless of how much profits the entrepreneurs are making. The number of workers available is also of great importance in this connection. But, when the workers organize, the size of the profits becomes a sort of maximum towards which they work. The organization of the employers has perhaps at most times been of little importance. The present tendency towards industrial combination is probably of considerable importance in an indirect way, which is so complex that it would take too long to analyze it here. In its direct effect it is probably of much less importance.

"The needs of pin-money workers" may seem of great importance now. But in the long run it has been of little importance and has probably comparatively little influence even now.

Raymond V. Phelan

a. Efficiency of worker.
b. Standard of living. Class standard of living is argued by employer as a justification of low wages.
c. Pin-money worker used as an excuse for low wages. "All our girls live at home," an employer will say with self-satisfaction and pride.
d. Danger and difficulty of work have little if any influence.
e. Tradition is a factor, operating especially through the class-conscious feeling of the employer.
f. Organization of workers is a decided factor. Organization or understanding among employers also a factor. For example, a girl must often give up one job before she will be considered by another establishment for another job.
g. Size of profits may operate to keep wages down. In two definite cases (newspaper publisher and department store managers) it is assumed that debt on the business justifies denial of wage advances recognized by the employer himself to be fair and to be due his workers in Minneapolis.

L. G. Powers

a. The efficiency of the worker.
b. The regularity of the work.
c. The danger and difficulty of the occupation.
d. The number of workers available.

e. The mode or standard of living.
f. Organization of the workers.
g. The chance of success or advancement.
h. The needs of the individual or of the family.
i. The size of the profits.
j. Local or trade traditions.
k. The needs of pin-money workers.
l. Organization of the employers.

I refer to the influence of the factors under average or normal conditions. For exceptional persons or under exceptional conditions the relative influence of the factors will be very different from that indicated by my notation. Thus the need of pin money which I have marked 11 on the scale of 12 may be the most important and impelling factor in the case of a limited number of persons, especially the members of the families of the fairly well to do.

In the long run the productive powers of the individual worker as of the workers collectively is the most important and determining factor of wage determination. With a fixed standard of living and settled condition of toil this factor is almost supreme. With an increasing collective productiveness which creates an increasing or advancing standard of living and thus of consuming power, some of the other factors listed assume greater relative importance than they have in the state of society first mentioned. In such a situation the influence of the organization of labor, legislation and kindred factors are greatly increased as compared to that which exists in the state of society first referred to.

The increasing standard of living is the factor making an increasing number of persons willing to toil for pin money. The needs of an individual or family is determined most of all by the standard of living of the class of toilers to which they belong or with which they associate.

Wages, I believe, *tend* to equal what is desirable and practical. With rising productive power of society as a whole, a rising standard of living is created and this forces up wages and the most effective factors of this change, are efficiency of workers, intelligence of toilers, and organization of the workers. Those having these qualities or controlling the advantages secure an

advance of wages first and most adequately while those not so favored secure the advance last and to the least extent.

E. M. Sergeant

a. The number of workers available.
b. Organization of the workers.
c. The efficiency of the worker.
d. The danger and difficulty of the occupation.
e. The regularity of the work.
f. Local or trade traditions.
g. The chance of success or advancement.
h. The mode or standard of living.
i. Organization of the employers.

I should say that items marked from f to i are of very small importance, and those stricken out entirely negligible.

Florence Simms

a. Organization of the workers.
b. Organization of the employers.
c. The number of workers available.
d. Local or trade traditions.

I think that only the four factors mentioned have a large share in wage determination.

Harrison B. Smith

The wage problem in this community (West Virginia) involves principally mine workers. I have, therefore, answered your first question by checking the mode or standard of living and organization of the workers. Our mine workers make good wages. Their standard of living is not high, but their mode of living involves large expense. The organization of the workers does not consider the amelioration of conditions, but wage increase; this does not produce a satisfactory result in all cases. It is a notable fact that our mine workers purchase their food and supplies in an expensive form; the result is that there is little thrift and some destitution, where the amount of wages justifies a better standard of living and provisions for old age and emergencies.

G. F. Steele

a. The efficiency of the worker.
b. The regularity of the work.
c. The danger and difficulty of the occupation.
d. The needs of the individual or of the family.
e. The chance of success or advancement.
f. Local or trade traditions.

You will observe that I have eliminated "The number of workers available," as I do not believe that any reputable concern in this section is in the habit of taking advantages of its employees and lowering wages in time of business depression. I know of a number of large concerns who realized that the cost of living had not decreased materially after the panic of 1907, and continued to pay the same wages that they were paying prior to that time; nor do I believe that organization of employers and workers has had any appreciable effect on the rate of wages in the middle west. The high cost of living has resulted in increase of wages, undoubtedly, because of the fact that competition for the services of labor has been keen, and it has been necessary to increase wages to meet the higher cost of living in order to keep full crews.

Robert R. Taylor

a. Organization of workers.
b. Organization of employers.
c. Demand and supply of products (not on your list).
d. Number of workers available.
e. Local or trade traditions.
f. Regularity of work.
g. Danger or difficulty of the occupation.
h. The size of the profits.
i. The efficiency of the workers.
j. Chance of success or advancement.
k. The mode or standard of living.
l. The needs of the individual or family.
m. The need of pin money workers.

I look on the organization of the wage earners and the employers as of first importance. The matter of organization has been so often discussed that there is not much that is new that I could

add, but in the building trades, where my work is and has been, the importance could hardly be overestimated. I was living in a certain city where I did much of the constructive work in a large architect's office and saw one trade union practically tie up building operations because a man wanted to put his own son in his own shop and the union objected as his son's name came on the apprentice list, but below that of other boys, and the union said his boy must wait his turn. I could cite numerous cases which have come under my observation showing what a power it is.

It may be surprising to note that I put efficiency so low in the list, but I feel pretty strongly that, except in piece work, the efficiency of the workman, however much may be said about it, is not as productive of increased pay as many believe.

A larger total wage may result because of increased length of employment, but rarely have I seen a wage paid which corresponds to the ratio of increased efficiency, that is, if one man does one-third more work than another, he rarely if ever receives one-third more in wages. There may be a slight increase or decrease in wages, but not in proportion to the increased or decreased amount of work done. There is usually a current rate of wage for workers in different industries in a locality, and very little is paid above that wage. It might be noted that where the piece system of pay is employed, often there is a sliding scale of wages, and usually some regulation of the maximum wage which can be earned. Probably laborers on railroad building in certain sections of the country may be an exception. Usually recruited from the less intelligent and least ambitious, and isolated largely because of the character of their work, there is not the organization or leadership that obtain in other lines of industry.

H. K. Thomas

a. Efficiency of the worker.
b. Regularity of the work.
c. Danger and difficulty of the occupation.
d. Local or trade traditions.

The other factors suggested have not, in my experience, influenced the matter.

W. H. Thompson

Earnest insistence is the chief factor in the determination of wages. Organization and concerted action of workers have brought about many advantages to workmen, and are about the only successful means for attaining such ends. The number of workers may occasionally have a bearing upon the amount of wages paid, but only a slight one. I have worked on short-handed switching crews a month at a time, saving the company a man's pay, without any additional pay.

A. C. Vandiver

a. Number of workers available.
b. Regularity of the work.
c. Organization of the workers.
d. Danger and difficulty of the occupation.
e. Organization of employers.
f. Local or trade conditions.
g. Efficiency of the worker.
h. Size of profits.
i. Chance of success or advancement.
j. Mode or standard of living.
k. Needs of pin money workers.
l. Needs of the individual or of the family.

O. J. Weeks

The factor determining the rate of wages is the efficiency of the employee. Help can be hired at all prices, but where good help is essential, a good wage must be paid. The cheaper class of help seems to be a listless lot, who float around from place to place, evidently not caring whether they work or not, some of them priding themselves upon their independence in not taking orders from their superiors.

William L. West

a. The efficiency of the worker.
b. The cost of living in the community in which the worker is employed.
c. The number of workers available.
d. The regularity of the work.
f. The size of the profits.

As an example of the second factor I would cite the rate of wages in New York City, where employers are compelled to pay more for the same class of work than in the towns of smaller size.

The needs of the family are not a factor to any considerable extent in the rate of wages, though occasionally, out of a feeling of sympathy, an employer pays a workman more out of consideration for his needs.

The regularity of work is quite a factor in determining the rate of wages. Workers are, as a rule, glad to work for a smaller wage if employed continually throughout the year than they are willing to accept at occupations which are irregular. The organization of employers is litle if any factor in the rate of wages.

The organization of workers, has, undoubtedly, increased wages in a number of cases. While this is undoubtedly a desirable thing from the point of view of the workers who receive the wages, it has the effect of diminishing the purchasing power of wages in almost all other occupations. To illustrate: the high wages now received by all connected with the building trade has increased the cost of building to such an extent that much higher rents must now be paid for the same class of buildings than prevailed a few years ago. As a result, it is becoming increasingly difficult for a family whose earnings are not large, to live in a detached house. High rents, caused by high wages of mechanics, are steadily driving the inhabitants of large cities to live in smaller and smaller quarters and depriving them of light and air to a much greater extent than formerly.

Ansley Wilcox

The great determinant is to be found in the law of *supply and demand.* Each of the factors mentioned to some extent modifies the operation of the law of supply and demand, but only in a minor way. By far the most important is the organization of employees, which sometimes produces a forcible disarrangement of conditions, but tends generally to produce more healthy changes in the conditions of supply and demand.

Mornay Williams

It is impossible to indicate the importance of the various factors enumerated. For instance, in the case of trades or employments requiring very special preparation and skill, "the efficiency of the worker" is, of course, one of the most important in determining the rate of wages. But where far less skill is required and there are large numbers of workers employed, the efficiency of the particular worker sinks greatly as a dominating factor in determining the rate of wages. The same is true of "the danger and difficulty of the occupation." In such trades as that of caisson workers the rate of wages is almost exclusively dependent on the danger of the occupation. But in trades where there is great danger from other causes, as from the bad air and bad sanitation of sweat shops, the danger of the occupation does not enter as a factor in fixing wages. For the great majority of wage workers, the "organization of the workers" is perhaps the chief factor in determining the high rate of wages, while the "organization of employers" is one of the chief factors in reducing wages.

In particular employments, "the regularity of the work" and "local or trade conditions" will greatly affect the rates of wages. "The mode or standard of living" or the worker will apply to the lower paid and less skilled workers. Something of the same kind is true in the case of the needs of the individuals or of the family in small communities rather than in large cities.

The needs of pin-money workers would chiefly affect women workers in such employments as have become very popular with them. It is not a large element in any other employment. The chance of success or advancement enters as a determining factor only in the higher ranks of workers and employments. Among the great mass of workers organization is a more important element in fixing the rate of wages than chance of advancement.

QUESTION No. 2

Do you believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole?

D. B. Armstrong

The answer is obviously "no." There is decidedly too great a difference between what all admit to be the necessary amount for self-respecting family maintenance and the average income of the great majority of families.

G. L. Arner

Emphatically no.

Selden Bacon

Your second question seems to me to mix up two totally different things: (1) what is desirable, and (2) what is practicable. It is *desirable* that every laborer should have a large wage; *that* is not *practicable,* because the increase of wage in any line tends to increase of cost of the product of that line to all consumers. What is practicable is a totally different proposition. What is practicable from one point of view becomes impracticable from another; but viewing your question in a more popular light it may mean what better system can be devised, and that is a problem of the utmost complexity, and where socialistic remedies which seem to help are very apt to hinder in other directions. It seems sometimes as though a minimum wage would be a great advantage to a certain type of employees, but those who advocate that solution seem to forget that a minimum wage law, actually enforced, means that the wage-earner whose efficiency is not sufficient to produce a product that will give that wage will not be employed, so that the seeming remedy is worse than the disease it was sought to cure. The same effect follows not infrequently on the efforts of labor unions to make an artificial minimum wage.

I can only hope that your commission in studying this subject will use the utmost care in analyzing its questions, so as to get the precise question framed and separated from other elements which do not properly enter into the question.

L. Barnet

Yes, if considered over long periods. There can be no doubt, however, that taking small segments of time it would be difficult to demonstrate the truth of this statement. It is beyond contradiction that the condition of the wage worker has continually improved from the time when industry outside of the homes was first introduced. With the increasing attention which is being given to the living conditions of the wage-earners, they would tend in the long run to approximate what is desirable and practicable socially.

Gertrude Barnum

No.

George Gordon Battle

Wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole. But this tendency has not yet reached the full extent to which it should go. In other words, I believe that the tendency of the condition referred to is to do justice to employees, but so far that condition is not fully developed. There is still far too great a disproportion between the rewards that come to the employing class and those which come to the employed class. This disproportion is growing less, but there is still much room for improvement.

Emma B. Beard

No.

Holmes Beckwith

Yes, in the sense that more often than not the wages are approximately just; no, in the sense that there are many grave injustices indeed, which should be righted so far as may be, and that society should strive earnestly to raise efficiency all around, as by fostering and supporting more and better industrial education for the masses.

Roy G. Blakey

Wages tend to approximate what is practicable among well-organized and intelligently directed labor unions, especially in the skilled trades, where such unions are most feasible; also, in a great many other industries, in many cases where there is free

competition among employers and where labor is mobile, can change easily where conditions are not satisfactory. It is possible in some cases to extort more than reasonable wages from employers, where labor unions are very strong and employer has much to lose from idle plant or violence, but if persisted in this puts the employer out of business in time.

Henry L. Calman

Wages determined by the above factors result in practical justice as a rule.

Victor S. Clark

I should say, in a general way, yes, that wages tend to what is practicable. They do not attain that, but constantly approach it.

Miles M. Dawson

In the absence of organization of workmen there is a definite tendency toward the lowest living wage without regard to what is desirable or practicable from the point of view of society as a whole.

Carroll W. Doten

In general in regard to questions 2 and 3, I may say that I believe laborers have never received as large a share of the product of industries as they ought to have received. How this social injustice can be remedied is a question which I am not prepared to answer; the solution will come gradually and I do not believe it can be brought about by any single agency, whether governmental or other.

Elizabeth Dutcher

For data, see Mr. Scott Nearing's figures on American wages, and their relation to efficient living. (One-half the workers of this country do not earn $600 a year.)

Similarly, the N. Y. Association for Improving Condition of the Poor showed (1909) that 45 per cent. of the heads of families (men and women) in New York receive less than $600 a year. Required to maintain "efficiency," $900.

Geo. Eastman

Yes.

Sarah Elkus

I believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole.

C. E. Gardiner

We do not think the results attained satisfactory from any point of view, and we believe they might be made more desirable.

W. A. Carrigues

We believe generally that wages should be and are determined by the factors we have indicated. We are answering this question from the standpoint of a practical business policy as well as from the standpoint of philanthropy.

Bolton Hall

I don't believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole, and I doubt if anybody else does.

W. R. Heath

No. Confining the consideration to the wage problem only, we have the trinity of interest, the employer who is not willing to do as much as he ought, the employee who is not willing to do as much as he ought, and "society as a whole" which is not willing to do anything at all. Society as a whole wishes society perpetuated but does not endeavor to equalize the burden of such perpetuation by exacting contribution from those who do not produce or help bear the burden of those who contribute more than their share. Society as a whole wishes society to be self-supporting, but it does less than its share in making society capable of self-support. Society as a whole wishes society cared for, but has failed utterly in taking care of its own derelicts in a sane and proper way. Society as a whole is not doing its share in the careful consideration of ways and means to promote and preserve

moral, intellectual and physical health of society. Society as a whole has shown considerable interest in society with reference to its hours of labor, its healthful workshop, its safe workroom, its proper compensation for labor, its compensation for misfortune, but society as a whole has shown little or no interest in society's other sixteen hours — where it shall sleep, where it shall be housed, what is shall eat and drink, where it shall recreate, how it shall keep its health, etc. The danger at this time is not so much in the eight hours of labor as in the sixteen hours of rest. Low efficiency now is not due to labor in most instances, but is due to so-called rest and recreation. High cost of living in no small part is due to low efficiency. Low efficiency is almost entirely due to improper living during the sixteen hours of non-employment, and in this society as a whole should interest itself.

Carrying this idea one step farther, industry if it is to prosper cannot support inefficiency, indolence and incapacity. It cannot pay for the accidents it does not produce, nor support those who have become sick and maimed in traveling along the pathway of pleasure and license. We favor a full day of rest for every six consecutive days of labor, knowing our lowest efficiency and highest accident record is on the day following this day of rest and the day following the holiday, and this problem we turn over to society as a whole.

And again, if society as a whole is to be perpetuated, society as a whole must furnish to every man in jail or out of jail employment suited to his abilities, for which he shall receive reasonable pay, which pay shall first go toward the support of himself and those for whom he is responsible, the distribution to be made by the worker's own voluntary act if capable, and by the act of society as a whole if incapable. No man should be deprived of the right of work merely because he has for the time being sacrifised his right of freedom of movement in society.

These are problems for society as a whole, and are not problems for the industry. The industry pays for services performed, society as a whole furnishes employment to those who would not otherwise have it, some of which will be performed voluntarily and other involuntarily.

Leo Hirschfeld

Yes.

F. Lincoln Hutchins

In a condition of equal opportunity the natural law must bring best results, as man has not yet been able to improve on nature's laws or to avoid the penalty for disobeying them. In a community where every worker has free opportunity no poverty can be chronic except that due to failure of natural crops or introduction of epidemics. This free opportunity is impossible unless the worker has free access to the land and implements of production.

Where such free opportunity is denied by special property rights, it is inevitable that parties holding such rights will levy tribute before permitting the worker to produce. Hence present average wages cannot be just, and what is unjust is neither desirable nor (in the long run) practicable. It leads to just such labor disturbances as those with which the present day is troubled.

Alvin S. Johnson

I do not believe that wages, as determined by the factors given, are equal to what is desirable and practicable. In the present condition of society, low wages in the present produce the inefficiency which make low wages in the future inevitable. There are many trades that yield wages sufficient for efficiency; here, I should say, the factors above mentioned might be left to work out their own result.

E. M. Keator

I believe that the wages as determined by these factors tend generally to equal what is practicable from the point of view of society; but not what is desirable. It is very difficult to satisfy desire permanently, and any wage legislation based on such a theory would result in chaos. Wages would be automatically increased by every succeeding legislature.

R. C. Kemmerer

Yes.

Wilford I. King

Not desirable, but practicable.

George J. Kraft

The fact that one man has worked as foreman in my factory for fifty-four years, his father and his older brother holding the same position before him; that my present foreman has worked for me twenty-four years, working his way up from the lowest position; that I have now in my employ one "girl" that has worked for me for nearly thirty years, another for twenty-six years and others for shorter (but still long) time; that I have had in my workshop many whose mothers formerly worked for me, would seem to indicate that they were pretty well satisfied with their work, with their surroundings and their pay.

H. P. Lansdale

Too little attention, to my mind, is being given to the needs of the individual and of the family; and yet I do not see any solution to the proposition; and I am further convinced that in some way the workers should share in the profits, as I am a believer in co-operative business.

D. D. Leschoier

I do not believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole, for the following reasons: First, price changes, which make it impossible for the worker to continue to meet his necessary cost of living or his desired standard of living at the wage rates which were current at the time when the price changes began, do not register themselves quickly in a corresponding increase of wages. We have been in a period of rapidly rising prices since 1898, but even at the present time wages are not showing any tendency to rise as rapidly as prices have been doing; so that our workers appear to be worse off as far as meeting their costs of living is concerned at the present time than they were in 1900. Wages ought to be determined by some force which would keep a reasonable balance between what we might call a normal standard of living and the existing wage rates. The resistance of older wage standards to any new forces which tend to raise wages, and the greater advantage of the employer in the wage bargain, tend to prevent this

readjustment which the best interests of the workers and of society require.

William H. Lough

Wages are about as high on the average as is now possible. Two factors which have been at work for generations and which will continue to work indefinitely tend to increase "productivity" and thereby raise wages. The first factor is an increase in the average efficiency of the individual workers due to better education and better standards of living; the second factor is an increase in the "productivity" of capital due to inventions and improvements. The laborer, as well as the owner of the capital, is bound to profit by this second factor.

It is highly desirable, in my opinion, that wages should be increased all along the line. I can see no possible way of bringing about this increase except through the working of the two factors just mentioned.

Benjamin C. Marsh

It seems to me self-evident that wages as determined by the factors you have enumerated do not equal what is desirable and practicable from the point of view of society as a whole. Obviously the only real question is whether the wages are just and are sufficient to enable the family to maintain a minimum standard of national efficiency of the country, which includes enough to support the members of the family dependent when the working days are over.

Most of the unskilled wage earners, not engaged in government work, secure less than the minimum wage on any fair standard of living. Unfortunately in the city of New York, until recently, if not at present, many municipal employees, especially per diem employees, received less than the wages required to maintain a national standard of efficiency.

David A. McCabe

Wages as now determined are in many cases below what is desirable and practicable from the standpoint of society as a whole; I refer not to individual cases but to the normal rates for workers of average efficiency in many occupations or sub-occupations.

Geo. A. McKinlock

Yes, in general.

Henry T. Noyes

In general, wages, as determined by these factors, tend to equal what is desirable and practicable from the point of view of society as a whole.

Almus Olver

I do not believe that wages, as determined by these factors, tend generally to equal what is desirable and practicable from the point of view of society and as a whole, for the reason that neither the employer or the employee take this question into consideration, except as the employee demands a higher wage in order to elevate the standard of living of his family. However, on the whole, little consideration is given the attainment of this end, and such instances as have come to my attention have been almost invariably brought about by other means.

Alfred E. Ommen

In general, yes, but there are doubtless many exceptions, especially if the course of years is not taken into account. It is believed that the business man knows best how to regulate his business and just how much he can afford to pay the workmen, and that the workmen should rather work with the employer than for him. Those who legislate on this question know very little of the industries affected by this legislation.

Edward D. Page

Wages are, of course, adjustments of the lives of individuals to the needs of society as expressed in its social and economic conditions; and they are, therefore, what is desirable and practical from the social point of view.

Maurice Parmelee

These factors have not as yet made wages in general as high as they should be on broad social grounds. Whether or not these factors alone will make them sufficiently high in the future it is

difficult to say. The organization of the workers may succeed in doing so.

Raymond V. Phelan

Wages as now determined do not tend generally to promote what is desirable and possibly practicable, from the view point of society.

E. M. Sergeant

There is no doubt that wages do not tend in general to equal what is desirable from the point of view of society as a whole. Whether it is practicable to modify this condition by the introduction of artificial conditions or regulations, appears to me extremely doubtful.

B. F. Steele

I believe that wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole; but I further believe that it is wise to establish a minimum wage for women and minors, and I am not particularly partial to the employment of minors, except under very strict laws.

H. K. Thomas

Generally speaking, yes; but this does not apply to the professional classes.

W. H. Thompson

As a whole, no; they are very short of an equitable distribution of what the workers produce. Hence the large calls upon charity to overcome destitution.

Almuth C. Vandiver

I do not believe that the wages as determined by these factors tend generally to equal what is desirable and practicable from the point of view of society as a whole, except in so far as the rates of wages are determined by the efficiency of the worker, the danger and difficulty of the occupation, the regularity of the work, the chance of success and advancement and the size of the profits.

Ansley Wilcox

Wages, as at present existing, are not equal to what is desirable; but I do think that in most cases they equal what is practicable; and I think that they "tend generally" to equal what is both desirable and practicable, from the point of view of society as a whole. This is a strong and permanent tendency.

Mornay Williams

All of the factors mentioned have not so far operated to equal what is desirable and, I believe, practicable from the point of view of society as a whole.

QUESTION No. 3

If you believe number 2 to be true in general, are there any particular industries or groups of workers that for special reasons are an exception to it? If so, mention any such and state why they are exceptional.

Emma B. Beard

Certain trades with strong unions are exceptions.

L. Barnet

With the exception of the necessary regulation of labor for children, and the proper control of the hours of labor for women, there are no particular industries or groups of workers for whom special legislation is necessary.

George Gordon Battle

The particular industries or groups of workers that are, for special reasons, an exception to the rule that wages tend generally towards justice, are the unskilled and the unorganized. The unskilled do not get adequate wages because of their numbers and excessive helplessness. If they are unskilled, they are apt to be unorganized. Even if they are unskilled, they will get better justice if organized. If neither skilled nor organized, their condition is the worst of all.

Holmes Beckwith

There are groups, such as the garment workers in New York City, on the whole technically and economically inefficient, whose inefficiency results in low wages and is lamentable. Strictly, their low wage is just, unless we inquire as to the deep-lying causes of their inefficiency. That it is just, if so, is no sufficient reason for the State not to interfere. Often, however, the ignorance of these workers and others similarly situated (the sweated and tenement occupations) results in their being paid less than their services are worth.

Roy G. Blakey

Unorganized groups of laborers or individual laborers are apt to get less than they should if employers organize to pay as low wages as possible or have a tacit understanding to the same effect, or if single employers employ large numbers (for in the latter case the one employer is a combination in himself, to some extent). Women and children are less mobile, less free to move about to take advantage of better wages and better conditions than are men, their unions are generally less permanent and successful and to that degree they form a separate class needing special protection at the hands of organized society. The more ignorant and unskilled men are, the less they know of the possibilities of organization, the more true this is of women also.

Charles L. Chute

In industry under-payment of wage earners is general. Where labor is unskilled and ignorant, and large numbers are employed, wages are exceptionally low.

Miles M. Dawson

There are particular industries or groups of workers which are exceptional in that, owing to want of organization and to the large proportion of women or children who enter them, the tendency toward the lowest living wage — or even below the lowest living wage — is irresistible. The tendency to the lowest living wage which exists in the absence of organization of workmen even though there were no other exceptional circumstances but the competition of children and of women who live at home and are partly supported by parents or others or who contribute only partly to the support of a family makes all such industries exceptional, and in the absence of minimum wage legislation or of organization of workmen (which is in such cases exceedingly difficult, and perhaps as regards thorough organization, impossible) the lowest wages in such businesses are likely to be under the lowest wage at which the worker could live independently. Among such industries are the department stores. All industries into which women enter in large numbers or in which the labor of children is largely employed, fall, so far as I am aware, within this class.

C. E. Gardiner

We do not believe number 2 to be true, but the unsatisfactory character of the results varies in degree, and may demand varying treatment.

W. A. Garrigues

We believe that wages in the building trades are generally greater than the value of the service rendered, due to the influence of trades unions in the past. The excess paid is a tax to which the workers themselves contribute in increased cost of living.

F. H. Gilson

Any industry which employs persons who for lack of opportunity to do better are bound to remain in the industry, should pay a living wage to the experienced people therein. Apprentices in all industries must expect to receive lower wages and in some instances, perhaps, even pay for their instructions.

Bolton Hall

Conditions are exceptionally bad in occupations where the opportunities are monopolized, as in mines.

Mary Alden Hopkins

The untruth of 2 is clearly shown in the case of widows supporting children, and daughters supporting parents.

Howard C. Hopson

In some particular industries or groups of workers these factors do not produce a result that is for the good of the particular workers or society as a whole resulting from undue predominance being given to certain of them. For example, in some industries the profits of the business are so small that it is impossible for the employers to pay a proper wage, owing to competition, the gradual abandonment of use of the product, or something of that sort. In some occupations the perversion of the

proper purpose of the organization of the workers has gone toward limiting production, either by shortening the hours of work below what is desired by the workers themselves or below what they can reasonably accomplish. For example, on large contract works being performed away from the centers of population or by a transient class of labor, the laborers would much prefer to work longer than seven or eight hours and receive a proportionately greater compensation; yet laws in some states prohibit their working beyond the specified length of time, and they are compelled to spend the remainder of the time in idleness and possibly in undesirable environments which might have a tendency to prevent the formation of habits of thrift and encourage them to become dissolute and eventually a charge upon the community. The undue emphasis of any factor which discourages initiative and efficiency on the part of the individual worker is bad for society.

Alvin S. Johnson

The industries most likely to be found paying wages too low for social advantages are (1) those employing chiefly unskilled immigrant labor; (2) those employing chiefly women and girls. In both cases there is no definite minimum limit to the wage contract. Competition between employers is apt to take the form of seeking cheaper labor. The needle trades furnish examples; also, laundries, bakeries, etc.

Wilford I. King

Strongly organized labor gets monopoly rates at expense of other workers.

D. D. Lescohier

The more weak or ignorant a group of workers is, or the more the supply of labor in every industry is in excess of the demand for labor, the greater is the tendency for the wage rate to remain stagnant and to fail to readjust itself to changing needs,

William H. Lough

Certain industries, such as coal mining and certain phases of clothing manufacture, have from the nature of their work attracted groups of workers of exceptionally low efficiency. In some of these cases I am inclined to think that employers have shown lack of intelligence and foresight in failing to use modern methods of production and in failing to provide proper incentives and facilities for developing the efficiency of their workers. In industries of this class there may be exceptional conditions that are dangerous to the whole country and that require exceptional action.

Alfred E. Ommen

The railroads and other public utilities might possibly be regulated by legislation, but it should be National regulation and not State regulation.

Edward D. Page

There are, doubtless, industries and groups of workers that are an exception to number 2. They are, however, those wherein the adjustment of the worker to social and economic conditions is imperfect; and in such instances there is a constant tendency to a better adjustment. I may add that there are no absolutely perfect adjustments anywhere in nature or life; they are all approximations. Also, that adjustments tend to become imperfect as conditions change.

Maurice Parmelee

A few of the most highly organized trades may seem to be exceptions. However, even this is doubtful for these trades, to say the least, tend to force up the wages in other trades by setting a higher standard.

H. K. Thomas

I do not consider that any industrial workers are exceptions to number 2.

W. H. Thompson

There are no specially favored groups; corporations see to it that all are exploited in about the same manner.

QUESTION No. 4

If you believe present wages in general or for any particular groups of workers are inadequate, how can they be raised?

a. By governmental action?
b. By what other agency and how?

D. B. Armstrong

I believe that wages can be raised best by governmental action.

G. L. Arner.

Governmental action can do something but the real solution is in the hands of the workers themselves.

Lloyd V. Ballard

By governmental action.

L. Barnet.

There are, no doubt, particular groups of workers whose wages in general are not adequate. The best method for raising wages in these groups, is, in part, by improved training during school years, and vocational training after work has begun. Such training should not be merely on rudimentary subjects and of a vocational nature, but should also include developing of character, which would emphasize the importance of application and thoroughness.

Gertrude Barnum

a. Minimum wage law with minimum to be decided by Minimum Wage Boards, (compulsory clause).
b. Organization in trade unions.
c. Organization of consumers.

George Gordon Battle

Wages should be raised:

a. By organization among the workers, and
b. By greater liberality and generosity on the part of the employers which will come chiefly through the pressure of public opinion as enlightment increases. Governmental action is practicable, but it must be exercised with great care and after careful investigation.

Emma B. Beard

By governmental action. The Consumers' Leagues, after a careful study of industrial conditions for nearly a quarter of a century, have decided that minimum wage legislation is the best means for assuring to the workers a living wage. In the industries where this is most needed it seems the only way.

Holmes Beckwith

Wages cannot, in any appreciable degree, be raised directly by government or other agency. A man cannot be made to pay more than the services bought are worth. They can be raised by increasing the mobility of labor, as by free public employment agencies which are really efficient, and state and national agencies to organize these; by railroad rates which stimulate movement of workers in response to demand, etc. More important even than these activities, they can be raised on a large scale by widespread and practical vocational training at public expense for the 95 per cent of our workers who at present have practically no such training outside of their places of work. Such training should include industrial, commercial, home economics, and agricultural subjects. (See recommendations in my report on German Industrial Education, published by the Federal Bureau of Education.)

Roy G. Blakey

The government can do some things, other agencies some things: the test in each case as to whether it shall be the government or some other agency is, Which will achieve the best results? In case chances seem about evenly divided, the presumption should be against government action. In many cases co-operation between voluntary organizations such as labor unions and governmental agencies is more effective than for either to go it alone. For example, co-operation is desirable in unemployment insurance and other forms of workmen's insurance; also, in the settlement of labor disputes and in the promoting of harmony and the prevention of causes of serious labor difficulties arising.

E. W. Bloomingdale

I believe that the present wage for some classes of workers is inadequate and that they can be raised by governmental action, but not by the method contemplated in the questionnaire.

If the government is to act in the matter, its effort should be in the direction of making and sending out into the world of business better equipped and more competent workers, so that the ascent of the lower rungs of the industrial ladder will be both more certain and more rapid.

Governmental action in fixing the rates of wages in private employment is, in my opinion, impracticable unless the state can first succeed in fixing a standard of capability and efficiency.

The state has not the right to fix upon a standard of living for the employe and then require the employer to pay from his private means the difference between the money value to him of the employe's services and the standard so fixed upon.

If the state is to be paternal, let it assume the responsibilities of parenthood and pay the deficiency in the earning power of the children out of its own pocket, which means that if the needs of the individual are to be the determining factor in fixing wages — instead of the value of services rendered — then let the people of the state, if they want such a law, pay to the lazy, the incompetent and the sub-standard, the difference between what they are able to earn and the amount necessary to enable them to live as well as their more capable, more energetic and more alert co-workers.

Then let them go a step further and fix a standard of living for lawyers, doctors, ministers, college professors and the like, and pass laws that will insure all of these a sufficient income to maintain the standard. The State of New York today has hundreds of employees, from the Governor down, to whom it is paying an insufficient wage to enable them to live, independently of private means, in the manner which the dignity of their positions demand.

Edward M. Brewer

So far as present wages in general or for any particular group of workers are inadequate, I am opposed to their being raised by governmental action. I firmly believe that it is best to leave all

questions as to wages to be adjusted by the workers directly with the employers. But I am in favor of the appointment of boards of officials whose duty it shall be, when called upon, to consider all such questions and with the approval and consent of both employers and workers to arbitrate thereon.

Edgar D. Brinkerhoff

Wages in general can not be raised by governmental action. Any attempt of this nature is sure to depress wages. All the depression of wages we see and all the low wages we have seen for a hundred years are due to governmental attempts to regulate business. For wages to be raised, profits must be of a larger size. For profits to be larger, business must be better organized, and industry must be made more efficient.

J. L. Burritt

Governmental action cannot ultimately increase the rate of wages. The only thing that can finally increase the rate of wages would be a better industrial condition particularly as applying to the profits of the manufacturers. With better profits manufacturers must necessarily pay higher wages because of the larger demands of competing manufacturers for labor.

Charles L. Chute

Both by governmental action and by the organization and co-operation of the employees.

Victor S. Clark

The wage level can be raised in certain groups of occupations by governmental action.

Miles M. Dawson

I do not think wages in general can be increased, except as a result of organization of workmen. The lowest wages paid in classes of industries where, for the reasons already given, there is a tendency of the lowest wage to be lower than the lowest rate of wages at which the worker can live independently, can, of course, be increased by governmental action fixing a minimum wage. I do not think there is any other agency which can meet this situa-

tion. Thorough organization of workmen who are in so helpless a condition is impracticable.

Elizabeth Dutcher

a. Yes; through the establishments of minimum wage boards (a form of collective bargaining as assisted by the State).
b. Through voluntary collective bargaining through trade unions.

George Eastman

a. No.
b. Increasing individual efficiency by education and the diversion of surplus labor to other channels.

Sarah Elkus

I believe the wages for girls working in the department stores are at present inadequate, but don't think that they can be raised, by governmental action. I think they can only be raised by the employer being willing to make less profits.

Joseph Frey

a. Minimum wage laws and industrial education.
b. Labor organization and cooperative enterprises.

C. E. Gardiner

We do not think that present wages generally are inadequate in the sense covered by the determining factors included in group 1, (needs and standard of life) as they are today. The standard of life varies in different trades and localities, but is in no case as high as could be wished; moreover, no standard that is not progressive is to be regarded as satisfactory. For some groups of workers the present standard falls below any admissible level of independent life, and in these cases governmental action may be practical and desirable, but speaking generally governmental interference as to wages would be undesirable. Trade unions are the agencies to which we should look for improvement; and even in the case of the weakest groups, outside action should lead to their own organization for self defense.

We would explain that we regard a change in trade union policy necessary if the unions are to exercise the influence we look

for from them. In our view the jealousy shown of employers' profits has been unreasonable and their impatience of high wages paid for special services unwise. Where else, we would ask, can be found the sources of better wages? Fruit must ripen before it is gathered. The incompetent employer, who fails to make profit, and the unadaptable workman, whose services are of little value, alike block the way. Wages are not paid out of capital, except on the road to bankruptcy, nor in excess of value received, if the employer knows his business. In so far as incompetence on both sides can be eliminated, the chances of trade unions would be improved and the benefit for labor would be progressive. Under pressure of competition the employers would do more for what they got; trade unions could do much to make and keep competition free. All surplus advantage would pass to the public.

W. A. Garrigues

We have not a sufficiently accurate knowledge of wages paid and service rendered in other occupations than those named to express an opinion as to the adequacy of such wages. Governmental action, however, on this point would be generally injurious. Business is at present suffering from too much legislation and if our answer to your first question is correct, it follows that the success of the worker is dependent upon the success of the employer.

F. H. Gilson

a. Governmental action no doubt, can help.
b. The raising of the standard of the employer that he should feel it his duty that no person who works for him shall go without a proper recompense, and the raising of the standard of the bargain hunter that they will not seek to secure at the bargain counter, goods for which they do not render a just recompense, and for which a just price has not been paid to the producer.

We practice what we preach. No journeyman girl in our bindery receives less than $9 a week when she has a full week, or if she works piece work, her piece price is made so that an average girl on the lowest paid operations can average $9 per week. As to its effect on our business, we find it a hard position to maintain.

It increases our costs over shops which hire for as little as they can possibly pay.

Bolton Hall

Present wages in general can be raised by opening the idle lands to the idle hands.

W. R. Heath

a. By governmental action.
b. The fixing of wages should be considered by the government only as a last resort. The government should lend its influence to encouraging proper labor conditions and the proper payment of wages, and should show the utter dependence of the employer upon the employee, and of the employee upon the employer. It should show them that the very best interests for both are in friendship and not in enmity. And in all legislative action there should be left ample opportunity for employers and employees to adjust their own differences without governmental interference.

Leo Hirschfeld

a. Positively no.
b. Application of worker to the work and his efficiency.

Mary Alden Hopkins

a. Yes.

Howard C. Hopson

a. I do not believe that the government should undertake to formally regulate this matter in view of the inefficiency in the service which it is now trying to perform.
b. I believe that the encouragement of profit sharing and bonuses in certain industries, the substitution of labor saving devices in others which are now unprofitable, making it possible to pay higher wages to those who remain in the industry, and the diversion of those who do not to other industries which can pay better wages, and other matters of that kind will be most helpful.

F. Lincoln Hutchins.

If my conception be true, the only logical program is to legislate out of existence all the unfortunate conditions which deny the worker free access to the means of production.

Belle Lindner Israels

a. By governmental action.
b. Workers' and employers' organizations.

W. T. Jackman

a. By governmental action.
b. To some extent through the trade unions.

Wilford I. King

a. By limiting immigration and raising standard of living.
b. By eugenic action.

Alvin S. Johnson

a. For particular groups, wages could and should be raised by governmental action.

E. M. Keator

a. Government action is most undesirable.
b. By profit sharing bonuses given by the manufacturer or merchant for increased production of superior work. This can only be brought about by decreasing costs of material to the manufacturer, and a lessening of his expense account. It certainly cannot be brought about by making him spend his profits in useless fire prevention equipment and prohibitive insurance rates on Workmen's Compensation Insurance.

R. C. Kemmerer

a. By agencies to keep workers informed of where work can be found.
b. By improving our school systems, and making the schools dovetail more with industries.

George J. Kraft

I believe the question of wages should be left to the employer and the employee.

a. Governmental interference tends to drive industries to neighboring states where there is not so much and such costly (to manufacture) "governmental action"; if persisted in "action" of this character will undoubtedly

drive many of us out of business entirely and throw thousands out of employment, while only a few will be benefited.

b. Relieve the manufacturer of the frequent and inquisitorial visits of inspectors; modify the many requirements and restrictions, many of them of no benefit except to building contractors and some of them absolutely useless; give the inspectors some discretion as to the necessity of enforcing the exact letter of the law and don't compel arbitrary compliance with regulations which do not apply to certain conditions; relieve us of the expense and worry of these things that we may devote more of our time to the development of our business, earn more money and so be able to pay more wages and engage more help.

H. P. Lansdale

To my mind, this must be regulated very largely by public opinion. I have great faith in the men who are conducting business, and I believe that if the matter is properly agitated, they will correct the abuses of the business. Through public schools, colleges and through some public form of education, public opinion would be revised to such an extent that the employers will do their full duty. I am more favorable to this than I am toward public action — although I am convinced that we need a commission at this junction with full powers to regulate present conditions. This should be done by the National government and not by any one state, as legislation within one state puts it at a disadvantage with another state.

D. D. Lescohier

A general and widespread knowledge of the changes which take place in prices and living costs on the one hand, and of wage movements on the other would tend to cause wages to readjust themselves more rapidly. There is less known in this country about the relation and the changes in the relation between wages and prices than almost any other economic question. I refer here to general popular knowledge. If the workers knew exactly and definitely what changes were taking place in prices and how those changes were affecting their family budget they would find means of expressing more effectively demands for wage increases when they were necessary, while employers on the other hand would

respond more readily to these legitimate claims if they had clear knowledge of the situation. In the second place, governmental action will become necessary for regulating minimum standards in order to prevent such employers as tend to undercut the going rates of wages from doing so and to establish a decent minimum standard of wages to which all employers will have to conform and which will tend to equalize labor costs between competing employers.

Burdette G. Lewis

I am in favor of handling the wage problem the way the state of Wisconsin handles the matter — by appointing a commission. After we know what conditions are we will at least be in a position to legislate intelligently with reference to a minimum wage. I am opposed to a minimum wage at present; I would regard it as tantamount to the wage legislation of England which was a curse to the country as long as it was in force. Until this country can handle the problem of unemployment fairly, there can be no real effective handling of the minimum wage question. If unemployment is out of the way, there is the problem of the inefficient man; unless a place can be found for him he will be a burden on the community.

William H. Lough

I have indicated (in answer to question 2 above) the only two factors which in the long run, in my judgment, can raise the general average of wages. It may, however, be desirable to establish a minimum wage for reasons which are discussed below.

Benjamin C. Marsh

Mr. Clarence Darrow, the labor attorney, answers this question, as follows:

> "Private ownership of land means increasing wealth for the few and increasing poverty for the masses. Workingmen take no account of fundamentals, any more than other folks. Millions of workingmen have organized themselves into unions to attempt the well-nigh impossible task of controlling the labor market instead of doing the fundamental thing, namely, changing conditions under which they live. If a

small fraction of the millions that have been spent on labor unions had been spent on fundamentals there would be no need of labor unions today.

"When we learn that the land belongs to all of us and to each only so much as he can use, then we will be free men — no need for labor unions then; no need to legislate to keep men and women from working themselves to death; no need to legislate against the white slave traffic. When it pays to behave, men will behave. They'll do it because they want to. There will be no class distrinctions at that time, no awful poverty and no awful wealth."

Before we can eliminate the extortions of privileged classes, which necessitate higher nominal wages, four things must be done:

Taking for public use most of the ground rent, both urban and rural, thereby enabling us to abolish nearly all forms of taxation, except possibly the income and the inheritance tax above a fairly high minimum; bona fide government ownership of all natural monopolies and of means of communication; regulation of prices, and naturally, therefore, of profits; the repudiation of public and industrial debts.

Private agencies have no business to interfere with the operation of economic laws, since such interference as practiced by the private charities merely retards the enactment of legislation or the repeal of existing legislation to secure just economic conditions. The establishment of homes for working girls where they may receive board and lodging at less than current rates is merely an insidious method of "rates in aid of wages." This was tried in England. Of course, it was shown to be a failure, as it always is and must be.

David A. McCabe

Wages can be considerably raised for groups of workers in many cases by the adoption of uniformly enforced standards, and this can be brought about by action of a government commission.

George A. McKinlock

Wages in general can be raised and equalized by the education of public opinion. I believe that governmental action backed by

public opinion may be necessary to bring many of the employers of labor to a proper realization and sense of their responsibility to their employees.

G. T. McWhirter

If the foreigner is eliminated, wages in general, as determined by the factors which have been suggested to you, tend generally to equal what is desirable and practicable from the point of view of American society as a whole.

Wages for the American workmen, in some lines, become inadequate because of the competition of foreigners. Economists have said that the American laborer is the poorest paid of all laborers — considering the quality and the amount of work performed. Then why encourage this cheap labor. Competition may be the life of trade, but immigration into this country is the death of better American society — except for the few — and the downfall of the American laboring class. Stop the immigration into the United States and no excuse can be given for the large number of idlers we have. Then we will not need a minimum wage law, for every person will be paid what he or she is worth or more. For the good of the whole society, and not a part of the society, New York State has too large a population. Drive out the foreigner and you will not need a minimum wage scale. Your dense population may bring immense wealth for a few, but it is not doing your laborer any good. Your American men and women, that work, are starving their stomachs because of too much competition. The government thinks too much about protecting the American factories against foreign competition and not enough about protecting the American working class against foreign competition.

Henry T. Noyes

For our industry we believe that the present wages are in general fairly well balanced, for the individual and for particular groups of workers.

Almus Olver

a. By governmental action.

Alfred E. Ommen

In the printing industry, wages are too high in the city of New York in comparison with other cities, such as Philadelphia, Chicago and Boston, and also in proportion to the rents and the cost of living. Governmental action cannot for any great length of time raise wages.

Edward D. Page

Any agency that presents opportunities of employment suitable to the capacity of the worker in fields more profitable for him than those in which he is engaged is a suitable agency. What is needed is the completest publicity of opportunity that is practicable.

Governmental action may be serviceable in promoting publicity of opportunity; the adjustment, however, should be left to the groups or individuals most concerned. The governmental fixing of wages or prices has always been unintelligent; governmental organization is incompetent to hold balances between interests that are always changing. Besides, the interest of the government is its own welfare or the welfare of individuals who compose it, and not the welfare of the groups whose relations are to be adjusted. Its action is slow, inflexible and uncertain; it yields to the clamor of the loudest mouthed and tends to effect injustices instead of equitable arrangements. Along the lines of investigation and publicity, however, a governmental agency may accomplish good results and powerfully affect both the psychological and social conditions; and through them, in a measure, the economic conditions. By the interaction of all these conditions the rate of wages is ultimately fixed.

Maurice Parmelee

The organization of workers is doing much to raise wages. Public sentiment outside of the working class is also having some influence.

Raymond V. Phelan

By government action plus education and unionization.

Unionization is practically necessary to the fullest success of government action. In Minnesota, women workers usually will

not sit on wage boards and when they do act they cannot be the best representatives of labor, as they do not feel free without a union at their backs. In the absence of unionization, furthermore, the government must depend to a great extent upon detective work to secure convictions for violation of a minimum wage law.

L. G. Powers

Wages have not yet risen to the level of modern production. Hence they are theoretically and practically too low and must be raised. They may be influenced to a slight extent by governmental action, by the passage of minimum wage laws and other laws, by the action of labor unions, and by the competitive struggle of employers, and by a rising general intelligence.

Charles Rohlfs

Before inaugurating a leveling process, why not consider a means to bringing about greater efficiency. Then a demand for higher pay would be justified. Now, then, to suggest a remedy.

Our children must be kept at school longer — say until they are at least sixteen years old. Here the State might justly be called upon to help poor parents keep their children in school.

While at school they must be taught at least the rudiments of really useful work, for which an employer will pay, not a minimum but a maximum wage. They should and will be paid, not in proportion to their imagined needs, but for what they can deliver in the way of work, for a man's estimate of his own value is not always just.

The school having taught them rudimentally, the employer can quickly teach them specific kinds of work. This kind of result would give us intelligent and resourceful workers who would not stand for a minimum wage, but would organize and get the limit, while the establishment of a minimum wage would, in the long run, eliminate thousands who are above or below a fixed capacity. What is to become of them? Will the State in addition to fixing a minimum wage, also take means to care for the thousands whom a minimum wage will throw out of work, the very young and the old, and those who have grown old enough to need more, but who are laid off because more minimums can be had

for the asking? You can no more insist on a minimum wage than you can insist that employment shall be given.

The truth is that the masses, as we have them with us now, are unable to earn more because they are unfit to earn more. Make them fit first. Our schools can be made to so train our children that, up to their capacity, they be first prepared to enter the ranks of workers.

It can be shown that the lack of training for useful work in the schools is accountable for much of the general shiftlessness, evidenced in an incapacity to earn wages at anything but a low order of work.

Realize, if you please, why we are where we are. For fifty years we have been deluding ourselves with the idea that our public schools were fitting us for our life's work, making useful men and women of us. Well, if they have done so, where are the men and women? They are not, or why the minimum wage question? We are simply reaping the whirlwind.

E. M. Sergeant

I do not believe that wages can be successfully controlled by governmental action. Improvement in this respect can in my opinion only be obtained by the general education of public sentiment.

Harrison B. Smith

My answer is, by fair legislation. I have not made a study of the wage question, but have followed the discussion with great interest. It has always seemed to me that the difficulty has been the lack of every-day honesty in our legislative bodies, and a refinement of honesty in our investigating commissions. Legislation is not fair; it leans to one side or the other; it does not go to the essential facts but discusses details. In one piece of legislation an unfair and dishonest sop will be thrown to labor, and another piece of legislation, passed by the same body, an unfair and dishonest slice will be handed to the employer. There is too much refinement of discussion, without attention to what it fair and right and honest from the standpoint of dealings between man and man.

G. F. Steele

I do not believe generally in interference by governmental action with the wages of workers, except as stated above in answer to question 2. If we do not look out we are likely to put ourselves into a position where we cannot compete with other nations, by unduly raising wages to the point where the manufacturer will be handicapped.

Robert R. Taylor

I believe the government could help very greatly by a campaign of publicity. It would investigate existing conditions, in an important way, put these conditions before the public, naming persons and places where unfair and unjust conditions exist, and encourage the employers to better conditions. I do not believe a minimum wage at this time desirable. The country is so large and conditions of living so different that it would be difficult to set a wage which would be equitable to all laborers or to all employers. For example, conditions of living are easier in the South than in the North, due to a milder climate and abundant moisture, making it possible to grow fruits and vegetables the entire year; a less expensively built house making the invested capital less; and a less severe climate requiring less fuel.

A minimum wage scale for the South could not be a fair minimum wage scale for the North. At the same time, if a lower minimum scale is established for the South it would place manufactures in the South at an advantage over those in other sections on account of lower labor cost.

H. K. Thomas

The present wages in general are adequate. They could not in general be raised unless the workers' standard of efficiency were by some means improved.

W. H. Thompson

The state could give much greater recognition to the labor unions, for one remedy; it could shorten the hours of labor; it could furnish those out of employment work to tide them over until business conditions warranted withdrawal of such employ-

ment; it could prevent all prison labor done from coming into competition to outside competitive work; it could increase the tax on large incomes; also the tax on the rich at time of death.

A. C. Vandiver

The present inadequate wages can be raised:

a. By governmental action establishing a minimum wage.
b. By the concerted voluntary action of employers.

O. J. Weeks

a. Government action in regards to compensation paid to employees would not be welcomed by the average business man.
b. A fair employer watches his help, and wherever his profits will allow and the employee is entitled to it, advances their wages.

Ansley Wilcox

a. I do not believe that wages should or can be raised by government action.
b. I do believe that they can be gradually raised by organizations of employees and by organizations of employers; by the cultivation of profit sharing, which in my judgment is by far the most hopeful means of solving our present labor troubles; by education improving the efficiency of the workers; and, in general, by moral suasion and enlightened public sentiment.

Mornay Williams

The tendency of the organization of workers co-operating with organizations of employers will eventually, I believe, be to bring about a better state of affairs. The experience of the garment workers, in the so-called protocol, indicates a line of development that might wisely be extended to a number of other trades, and in this I see a hope for a successful answer to the question. By the union of voluntary efforts and the proof through it of the possibility of employers and employed coming together to fix proper conditions of employment and eventually proper scales of wages, a basis may be formed for future legislation, and, possibly, government action; but the time has not yet come when government action, in the sense of control, can be introduced successfully.

QUESTION NO. 5

If governmental action is desirable, is the best form the establishment of a minimum wage (the amount to be determined for different industries, after investigation by some administrative body)? If not, what other governmental action is available and how can it be secured?

A full statement of your reasons for or against the establishment of a minimum wage, as indicated, would be greatly appreciated.

D. B. Armstrong

The minimum wage has proved to be a reasonably effective method. It must be remembered, however, that the minimum wage is only one of a number of minimums and maximums very popular with the pseudo reformer of to-day. All of them are purely palliative surface salves and simply postpone, perhaps for only a short time, the necessity for meeting the problem of a radical reorganization which will undoubtedly greatly modify the wage system and which will probably follow the suggestions of William James and H. G. Wells, regarding a reasonable alternation of labor, a universal conscript labor army, the socialization of industry as far as control is concerned, and the placing of the work of the world on a basis of service to the State rather than that of financial gain to the few.

G. L. Arner

The minimum wage as suggested is well worth a trial although it will not accomplish all that its most enthusiastic advocates believe.

Seldon Bacon

My fundamental objection to a minimum wage law is two-fold: In the first place, it will in many cases be inefficient; and second, that if made efficient it will, in many cases, deprive persons in need of work, who can not do efficient work, of the opportunity of doing the little work they can. What I believe in is a *fair* wage for a *fair* piece of work; not a minimum wage for a work that is not up to the minimum standard. Nor do I believe that the minimum wage is such a panacea as many people believe. A most admirable criticism of that idea appeared some time ago in *Life*

in a cartoon representing a shop girl answering the question whether she read her Bible by saying that she did not have to, she had a minimum wage of $8.70 a week. If a minimum wage law is to be established it should be based not on an arbitrary figure, but on a minimum efficiency, and the fundamental difficulty of drafting a minimum wage law is to find a standard of efficiency equal to the minimum wage. I do not approve the establishment of a minimum wage by governmental action, because of the practical impossibility of governmental action also fixing an efficiency corresponding to the minimum wage. Moreover, the establishment of a minimum wage would, in my judgment, tend rather to lower wages to that minimum, unless the minimum was set so low that it would have no beneficial effect.

I think the real difficulty comes near being summed up in the difficulty of fixing a corresponding rate of efficiency for the minimum wage; and the necessarily fluctuating character of that corresponding efficiency worked out into marketable product. What would be a fair wage corresponding to a particular efficiency in the production of products under some conditions of the market for the sale of such products would be a perfectly improper figure under other conditions. I am not speaking of mere temporary fluctuations, but of the large and permanent fluctuations that necessarily obtain. As a rule, the interference by legislation with such problems, as far as I have been able to study the history of such efforts, works badly rather than well. The trouble with natural laws in such cases is that they do not respond quickly enough to change of conditions. The difficulty with statutory provisions of that character is that they are even less sensitive.

Lloyd V. Ballard

In my opinion, we must begin farther back if we are to solve permanently the wages problem. We must get at the sources of our inefficient labor supply. This means that there must be devised some means of restricting the spawning of inefficient workers. A very cursory examination of the increases in our population shows that the families that are most prolific are the ones least able to support those large families; or at least, they are the least able of placing their children out of the low wage class of which

they are members, into the higher wage classes by means of education and training. The common sense method is to proceed against this evil, and not against the employer who pays low wages because so many of the population make no effect to restrain the reproductive impulse.

It can be shown that this procedure would not be chimerical. The government could as easily determine the wage that would support the average family (say of three children) as it could determine a minimum wage. Then it could also say that only those individuals who were able to show that they were capable of earning that wage could marry. This could be done on the same principle as a eugenics law, and with no more opposition than such a law usually incurs. Such a law would violate no inherent human right, and could be applied to the immigrant as well as to natives. Under such a law, only immigrants would be admitted to the country as could give evidence that they could earn the efficiency wage.

It is true that for a time the government would have to care for such as could not meet the requirements, perhaps, but such a law would not prevent men from working but only from marrying when they would not be able to produce efficient offspring, either physically, or as far as furnishing them the benefits of an education and training. If the state should be forced to care for numbers of such, it could do so by taxing swollen fortunes either by an income or an inheritance tax or both.

L. Barnet

General governmental action is not desirable.

Gertrude Barnum

Yes.

George Gordon Battle

I am in favor of the establishment of a minimum wage, the amount to be determined for different industries after investigation by an administrative body. So far as skilled and organized labor is concerned, the wages at present paid are fairly adequate, and are certainly as much as or more than a reasonable minimum wage. But for unskilled and unorganized labor, the wages paid are often starvation wages and below the reasonable minimum.

Emma B. Beard

Yes. The establishment of a minimum wage in this way would permit careful consideration of the industry, the standard of the workers and the conditions of the special localities.

Holmes Beckwith

It is a misunderstanding of the purpose and real effect of minimum wage laws to think that they will to any appreciable extent *raise wages.* Their true purpose and real effect is, I believe, to distinguish and separate clearly those who can earn the minimum, and those who cannot. This done, the real, vital problem is but fairly met, not overcome. That problem then is, What shall be done with those who cannot earn the minimum (presumably about a "living wage")? The inquiries necessary, and the enforcement of the minimum wage laws, will *force* society then to solve, as best it may, this problem. As possible solutions are vocational education, farm colonies to make these unfit fit, imprisonment and forced labor for those wilfully idle and inefficient.

Harry Best

Wages are dependent upon a great number of things. In a state like New York and especially in a city like this, little headway can be made at the beginning with the constant influx of immigrants, many of whom are unskilled. Regulation of immigration, including its distribution, demands first attention. An increased effort should be made to locate industries out of New York City, where the cost of living is materially less. Working papers should be granted at a later age than at present — a year or two later at any rate. Vocational training in schools should have greater emphasis. Labor unions should be encouraged, and should have all the protection at the law that is compatible with the other interests of the state. Home work should be more and more reduced, with perhaps eventually its elimination. These are some of the means at hand short of the minimum wage.

The minimum wage, I think, should be adopted only after careful study and earnest thought. *Per se* I favor it. But I do not believe that it should be attempted immediately, or until attention has been directed to some of the other factors in the wage question.

Roy G. Blakey

In some cases it seems best to have minimum wages established by government agencies, but there are a great many things that the government and other agencies can do to improve conditions and prevent too wide use of or necessity for fixing wages by the State.

In the first place, the federal government should restrict immigration. Vocational and trade education for all at State expense should be provided as rapidly as possible. A comprehensive and wisely directed system of employment information bureaus and agencies covering the entire United States should be put in operation. The educational and age requirements before permitting minors to engage in industries should be raised in most states and made uniform for all. Women and children should be absolutely prohibited from entering industries which endanger their health and the virility of the next generation. A great many exceptions in existing laws should be eliminated. Of course, no single state can accomplish all of this alone, and the present Commission is most immediately concerned with what can be done by New York. The right kind of labor unions should be encouraged, and encouraged to co-operate with the State in every way that will promote the interests of the State and people as a whole.

Because women and children are often employed at wages which in the long run are detrimental to themselves and to society at large, the State has the right to step in and protect itself. Of course, this will work temporary hardship in many cases — just as a change of tariff, or workmen's compensation law or other legislation often works temporary hardship. "Temporary" may mean several years, though in the end some of the changes mean benefit to all concerned, or at least to the majority. If a minimum wage is established, doubtless those earning less than the minimum will be discharged.

Much depends upon where the minimum is put. It should be put at or below the point of securing necessities for health and continued efficiency. This means very low. An industry which can not pay that to ordinarily qualified people is parasitic and should not be allowed to exist. Those who can not earn that amount under average conditions in an industry that is not para-

sitic are fit subjects for State aid, since they must be defectives. If they can't earn the minimum wage, which means what is necessary for existence and continued physical efficiency, or a little less, for them to be put entirely out of employment is to hasten a decline that is inevitable and will be long drawn out anyway (by definition of this minimum wage), unless the State takes care of them.

R. M. Bradley

It is true that the early economists went astray and were discredited because they ignored the social laws and forces that form part of the makeup of human nature, and because they dealt with man as if he were a being affected only by economic motives. Now, however, we have a body of social workers who, with some notable exceptions, are likewise inviting ultimate failure and discredit because in their zeal for a better study and use of social forces they are ignoring the equally vital economic laws.

No intention, however good, can keep a continued and unlimited supply of labor from affecting the price that labor can command. If we ignore this fact and try to remedy the condition of our workers by such secondary remedies as better distribution, better agencies for employment, etc., there is every prospect that the very efforts that might otherwise bring benefit will, in the end, produce more poverty rather than less.

There are many ways in which the benefits that we seek will elude us. A minimum wage law or an efficient organization of labor may, over a limited area, for a time, enforce a higher rate of wages. It can hardly, however, succeed in preventing the piling up of workers at the favored points, thus bringing about the substitution of partial employment at higher pay for lower pay with fuller employment. It can seldom prevent competition with the employer from some less well organized region, since in our commerce between the States we have the largest area of free competition in the world. Moreover, the highest temporary success of a trade union in raising wages against an overstocked labor market, produces a state of the most unstable equilibrium.

In addition to non-union competition, new materials and new processes are continually flanking the union's entrenchments. Everywhere the employer finds himself impelled by self interest,

or forced by competition, to rearrange his industry so that he can use the more abundant unorganized cheap labor in place of the higher-priced men who are not living in three-room tenements and taking boarders.

J. L. Burritt

A minimum wage by governmental action would quickly result in throwing inefficient workers out of employment. Taking our own industry as an example we would be compelled to dismiss some of our employees who are now given employment partly as a matter of charity. This would apply especially to elderly persons. We now employ several men and women whom we would not be employing if their efficiency had to be raised to a fixed standard. A fixed scale of wages that is not dependent solely on the efficiency of the employee also tends to reduce the wages of the most efficient employees.

Henry L. Calman

We believe that the establishment of a minimum wage by legal enactment would, in the end, work injury to the worker; it would be bound to lead to greater discrimination in employment, and would eliminate from the ranks of the employed many of those who can now secure such employment only on account of their being ready to accept somewhat less than any standard that might be established.

Charles L. Chute

The minimum wage has proved itself successful as one factor in raising wages and elevating the employee. It should be tried out in New York.

Victor S. Clark

Money compensation may be regulated by a minimum wage. Old age and invalid pensions, tenement house and factory legislation, compensation laws, and other legislative measures affect real wages vitally. I base my approval of minimum wage chiefly on observation of its effect in New Zealand and Australia.

Miles M. Dawson

I think that the best form is the establishment of a minimum wage, which, however, really ought not to be determined differently

for different industries, but ought to be the lowest figure at which the workmen can support themselves independently, or, in the case perhaps of men past the marriageable age, can support their families independently. I think this will ultimately be the result of investigations by administrative bodies.

I do not think there are any good, sound reasons against the establishment of a minimum wage if confined, as I have indicated, to the lowest figure at which the workmen can live independently. All the arguments are in favor of it. It can be enforced. Failure to adopt it and enforce it means that family life is in danger, and marriage and the establishment of families greatly discouraged.

The argument occasionally advanced, that it will merely encourage more and more women to engage in wage-earning employments, is not sound. If they are so to engage, whether in large or in small numbers, their compensation when fully employed should be enough to sustain them.

O. L. Dean

I am in favor of a minimum wage scale for most places where any number of people are employed, as it is only fair as a matter of competition. Some dealers want the longest hours possible with the least pay possible for their employees; while there are many others, I am glad to say, that are willing and glad to be able to pay a good living wage for a good class of help. Such people usually have the best help, and I think get more real worth out of them, as they are apt to be more conscientious, interested employees. I have in mind a retailer who has between 100 and 200 girls, whom he pays from two to three up to five dollars a week as a limit. I call that *unfair competition,* and a *menace* to the morals of our social life as we find it in a large city.

Carroll W. Doten

I cannot take the time to give the reasons for my feeling in regard to the minimum wage, but I may say in general that I believe it is socially inexpedient to permit the existence of any parasitic industry in the community, and on the other hand, it is certainly socially inexpedient to permit weak and defenceless laboring people to accept wages which do not provide a sufficient

amount for the maintenance of a decent standard of living. No doubt, in the working out of a minimum wage law, there will be cases of hardship to both employers and employees. No reform has ever been instituted which has not resulted in some hardship to somebody. These hardships may possibly be called the "growing pains" of progress, and are inevitable, however regretable they may be.

Elizabeth Dutcher

I believe in the minimum wage because through it the State in the interest of its own welfare, recognizes the important principle that without a minimum of the ordinary means of existence efficiency is impossible, and the human machine is gradually impaired. The State has gradually become convinced that it is necessary to insure a minimum of education, of sanitation, of leisure and rest, and of medical attendance in illness, and burial in death. It has carefully safeguarded such important episodes in human life as birth, marriage and death. The only relationship it has deemed, apparently, too sacred for its regulation is the cash relationship. Daily economic exploitation is just as insidious in its effect as overwork.

In the interest of the community at large, the Federal Government has regulated the rates fixed for shippers, generally themselves men of resource, by the railroads. Should not the same principle be applied to the terms whereby a powerful corporation, appropriates the best years of a woman's life?

There is no argument that can be advanced against the minimum wage that does not hold good against raising wages by collective bargaining. We are told that, under wage boards, the minimum wage tends to become the maximum. Wage statistics from Victoria refute this. On the other hand, some opponents of the minimum wage contend that it will not only raise *low* wages but will make *all* wages rise in proportion, and so spell ruin to the employer. An employer's association could meet this condition, if necessary, by raising prices. It can be shown, however, that highly paid labor is the cheapest.

If the issue were not so important, it would be amusing to see how contradictory are the arguments against the minimum wage. One group contends that it will drive *all women* out of

industry, while others, who are firm in their conviction that women's place is in the home, lament the fact that it will make the position of women in industry more secure. A group of trade unionists who have never been conspicuous in their efforts to organize the "sweated" trades are sure that it means a death blow to trade unionism, despite the obvious fact that it is only in countries where the minimum wage has been established that these sweated trades are organized at all.

That the problem of the defective will be made more acute by the adoption of a compulsory living wage, cannot be denied. There are those who seem to think that such parasitic trades as the candy and paper box trades, and the department stores, should be permitted to continue to force the majority of their employees to a life of partial dependence on those members of their family who are fortunate enough to work in better paid trades, with the alternative of the slow starvation of body and mind that continuous poverty means, in order that a small proportion of defectives of one sort or another may be provided with "useful" work. That the State in self-protection should provide for the education and training, and if need be, for the segregation of the defective is a truism. To expose such a person to the wear and tear of life in the ordinary factory or store is only cruelty.

I believe in the minimum wage because wages are life; they mean, for the worker, not only the means to keep the human machinery going at all, and provide for its repair, but they mean decent living conditions, opportunities for higher living, and peace of mind. The minimum wage means a better America for the future generation.

George Eastman

I am wholly opposed to the establishment of a minimum wage because I believe that if such wages are fixed by governmental edict the result will be to increase prices in the same proportion, thereby leaving the worker with only the same purchasing power that he now possesses.

Sarah Elkus

I don't believe in the establishment of a minimum wage, as in most cases it would tend to put a premium on laziness, irregular-

ity, etc. In many cases where the employers are in great need of workers they would have to pay the lazy and inefficient worker the minimum wage to start with just the same as they would the efficient worker. For instance, if the minimum wage in the department stores were nine dollars a week, it would exclude all the young girls who have to earn a living, and throw many out of employment. If there is a minimum wage, this application should not be restricted to women and minors.

Eliza P. Evans

Whether a minimum wage law is the solution of the wage problem, one cannot say, but I believe its possibilities to be very great and well worth an extended trial. A uniform state minimum wage law is much to be preferred to the variety of laws that are adopted and likely to be adopted. A federal law would be worth while if the constitutional barriers can be overcome.

C. E. Gardiner

Our reply to the first part of this question is in the affirmative.

W. A. Garrigues

Governmental action in the direction indicated is not desirable. Business should be fostered, not handicapped by unnecessary and foolish laws. Large numbers of workers are now out of employment owing to the fact that Congress and our State legislatures are too largely composed of men with no practical business experience, who, therefore, are unable to realize that prosperity for the worker is dependent upon prosperity for the employer.

F. H. Gilson

A minimum wage which is to be paid regardless of whether the operative renders an equivalent would encourage indifference and inefficiency on the part of the unambitious operative. On the other hand, to leave wages as they are now in many cases established, at the lowest possible point at which anybody can be forced to work, is undesirable. It would probably be desirable to establish a minimum wage for an average person rather than a mini-

mum wage for all persons, and this wage should be established at a level where the average person can be at least self-supporting even in the humblest occupations where adults are employed, and so that the ambitious, or person above the average should be able to earn more, but not putting a premium upon idleness or shirking by paying to the idle shirker the same as the average worker. A minimum piece price where it can be applied ought to fit this proposition.

William P. Gone

The establishment of a minimum wage would have as its most serious and immediate result, the driving out of employment of those who were earning the least, and presumably were most dependent on their work. It is always true that in any industry there are many people employed who are not up with the average for one reason or another. Perhaps the business might be conducted fully as profitably without them, but for reasons — some of them not purely economic,— they are employed at a lower wage than the rest. As soon as the alternative is forced on the manufacturer of employing no one at less than a certain price, the great majority from necessity, or choice, will discharge such of these people as cannot be profitably employed. Some manufacturers may pay the increase to these people, but they would do so purely out of charity, and it is unlikely that in the long run, a motive of this kind would be effective enough to do this class of workman much permanent good.

Bolton Hall

Wages are that part of the product which the laborer retains for himself. Wages, therefore, are necessarily drawn from land and labor, that is, from the exercise of labor upon land or the products of land, and can be drawn from nothing else. We cannot sweep back the sea, although we may dam it out here and there, and it seems clear that since the source of wages is land and labor, the amount can only be permanently increased or decreased by the availability of one of these two factors. We have abundant idle hands and we have superabundant idle lands.

Such plans as minimum wages then, like charities, are mere stop gaps and palliatives and patches, which in the end show the melancholy result that rents are increased.

W. R. Heath

The answer to No. 5 is practically the same as No. 4. As a last resort the establishment of a minimum wage by law is to be favored, but before this there should be the policy of encouraging the proper relationship, possibly by the establishment of a State Industrial Commission with sufficient powers to determine, subject to the review of the courts, the course to be pursued by particular industries and workers requiring direction or restraint.

Leo Hirshfeld

Government action to establish a minimum wage can, in our opinion, never be successful in benefiting a majority of industries and their workers. It can never be just to all concerned. It would work harm to the employer by forcing him to pay for inefficiency, as well as for efficiency. It would in a way force the efficient and ambitious worker to carry part of the burden of the inefficient and shiftless one. In other words, it would put a burden on efficiency and foster inefficiency. It would put out of work a great many who need it mostly. It would take away the chance of the beginner to start small and work up to a certain standard. Take away ambition from men and women, and the result cannot be good.

Let government action help the workers from a different point. Furnish good practical education. Make it easy and pleasant for all to absorb such education. Furnish education that teaches proper home conditions, that teaches a proper way to live. Teach women how to clothe economically, how to produce good and nutritive meals from good and inexpensive food stuffs. Teach them cleanliness, and sanitation, and how to produce good home conditions at little expense. As stated before, make such education easy and pleasant for the masses, in order that the majority will take advantage of it. Some men and women in all walks of life live comfortably and happily on small incomes, because they

are thrifty and temperate in their mode of living, and know how. Others are careless and always dissatisfied, and will never be good workers or good citizens, no matter under what laws.

Most employers are fair; only too glad to pay a maximum wage to a reliable, steady, efficient employee, and find it a very profitable investment.

George K. Holmes

My point of view is primarily that of one interested in the welfare of society; the welfare of labor and of capital owners is necessarily implied. My requirement is that industry shall be so managed as to make the saving and investment of capital worth while and to permit its employees to maintain at least a minimum quality of living and of social fitness, according to the standard of the time and of the people of the State. In determining this, the weapons of strike and lockout are barbarous. Mediation and arbitration determine controversies between capital and labor, but society is not a party. It is a matter of fundamental importance that it should be a party in every question relating to its own welfare. Maintenance of a standard of living that is above what is detrimental to social interests is essential to prevent social deterioration and society should see that industry provides the means to those industrial workers who are able to appropriate them. The instrument for this purpose is a Minimum Wage Board.

The practical adjudications of such a board suggest enormous difficulties. The experiences of boards of this sort in New Zealand and elsewhere will doubtless be instructive to the New York board, if one is established. Administration by such a board should be cautious and tentative for a long time. An important feature of this work should be the ascertainment and recording of results.

Presumably, a minimum wage would put some inefficient workers down and out, as far as their particular industry is concerned. The social fraction of the left-behind would perhaps be increased. This fraction presents a problem all by itself. It includes, also, the blind, the crippled, and other defectives. In a broad view, it is neither humane nor wise to let this social element limit the welfare and hamper the progress of the socially fit.

I have purposely confined my answer to a plea for and justification of a Minimum Wage Board. You will get from others answers that will be more practical than those that I am able to give you without taking much time to examine the details of the subject.

Howard C. Hopson

I do not believe the government should go beyond the establishment of bureaus of employment and labor exchanges, and from time to time make investigations in order to acquaint the general public with bad tendencies in order that society as a whole, through the education of public opinion, may take steps to protect itself.

E. D. Howard

The rates of wages in our tailor shops are determined by our three years' agreement. This agreement is based on the prices existing at the time of the big strike in Chicago and were determined prior to that time principally by the number of workers available for the different sections of tailoring. There was always a shortage of efficient help at that time.

There was a great lack of uniformity or rationality in the piece-work prices made. They depended quite a little upon the accident of any moment, and, being established, were very difficult to change. In many cases they have no relation to the skill required but rather to the efficiency of certain persons in bargaining with the foreman. Later these prices, fixed in such an uncertain way were crystalized and became the basis of an agreement.

Our piece-work prices in tailor shops are irrational; some of the persons are too highly paid, and others paid too low, but we know of no way by which a greater equality can be brought about.

There is an unfortunate but perhaps inevitable policy of union officers to refuse to consent to the reduction of any price or wage no matter how excessive or undesirable it may be. The direct result of this policy is that it is impossible to raise prices or wages where it would seem desirable for many reasons on account of the excessive cost which would be the result. Our board of arbitration has determined this matter and find no way to solve this problem.

By agreement we have a minimum wage. We have been well satisfied with this minimum although we know that it has been of disadvantage to feeble, aged, or relatively incompetent persons, as well as to young persons desiring to learn trades. It is a protection against misleading statements concerning low wages paid.

F. Lincoln Hutchins

A minimum wage is only another blundering way of interfering with the laws of the universe and must fail to have any lasting beneficial effect. It is an inefficient process that attempts to cure disease by neglecting the cause while applying palliatives to ease the sufferings of the patient. A man starving through lack of opportunity to create an appetite would be little benefited by an egg diet which he could not assimilate, while the eggs would be worse than wasted.

The remedy for exploitation of workers is in way of requiring all wages to be dependent upon product — a matter not difficult when approached in a scientific manner. Such a regulation would stop at once all conflict between employers and employed; would put all producers upon the same basis, thus preventing competition between employers to reduce wages and remove the obnoxious practices and methods of the unions. This would put a premium upon efficiency and create a forward movement in this country beyond calculation, to the benefit of all from low to high.

Belle Lindner Israels

Yes, if minimum is accompanied by an apprenticeship system.

W. T. Jackman

I favor the establishment of the minimum wage principle for the following reasons:

(a) It is evident from inquiries that many families are living below the standard which is necessary to maintain efficiency; and, according to the biological law, the fewer the chances for survival, the greater the number of individuals that will be produced. Consequently the continuation of the less-than-minimum wage adds to the difficulties of family life and increases the burden

imposed upon the state or community to help those who otherwise do not have enough.

(b) It seems to be necessary as a step to something better in the relations of employer and employed, just as compulsory education is essential until the community and its individual members come to see the desirableness of voluntary co-operation in education for the individual and social welfare.

N. Johannsen

To establish minimum wages by law would be utterly impracticable, because that would conflict with the law of supply and demand. There would be endless difficulties when trying to enforce such a law. Besides, unions and socialists would constantly endeavor to *raise* the minimum without paying the least regard to the condition of trade; and they would always find accommodating politicians willing to assist them in their endeavors.

As it is, employers are harassed to the brim by unreasonable demands on the part of labor unions. If, to establish minimum wages, they would have to fight not only with the unions but also with the government and with vote-seeking legislators, we would subject business to a new element of complication and trouble which may prove disastrous.

Alvin S. Johnson

A minimum wage, varying according to industry and locality, for the specially exploited trades, appears to me desirable. There is no reason why public boards, properly constituted, should not perform the same function for non-unionized industries that the organizations for collective bargaining perform in the unionized field. There are industries in which there seems to be no other escape from the vicious circle — low wages — inefficiency —low wages.

E. M. Keator

Governmental action of any sort is undesirable. The government is incompetent to run business. The stagnation of business at the present time is due to governmental action. No business man wants to give up his business to take a government job, and as

present constituted there are no business men in our government. The advent of women on some of the investigating commissions has and will result in a sentimental point of view. They are temperamentally unsuited for such work, and their meddling only results in hardship to either the employer or the worker. No legislation whose object is the minimum wage should be attempted. These things will adjust themselves, and while the process is slow, workers will eventually be paid what they are worth.

R. C. Kemmerer

It is my candid opinion that the minimum wage would not benefit the workers or society as a whole. The economic laws governing wages are best left alone.

There are other ways by which the state can improve the wage scale, such as state agencies for bringing workers and employers together, by adopting a system in our schools, whereby the pupils receive practical training while studying as they do in western cities. The state might go so far as to provide vocational agencies, whereby pupils and workers as well could secure free guidance in determining what work they are best fitted for, then directions given them where they might secure such employment.

Wilford I. King

No country has yet succeeded in raising the wage level by minimum wage legislation. Australia and New Zealand have tried it in vain.

Much could be done to help the poor, if immigration were eliminated, by guaranteeing steadiness of employment. Laws should be passed penalizing the employer who allows his labor force to fluctuate greatly during the year, and rewarding the employer who keeps employment steady. Not half of the so-called seasonal industries are really necessarily seasonal. They represent carelessness and lack of foresight on the part of employers. A penalty would quickly steady the demand for labor in many lines.

Labor unions, like other monopolies, benefit part of the population (those inside) at the expense of the rest. They are socially beneficial in only one way. They lower the wages of unskilled labor outside, and hence lessen immigration by making conditions for the immigrant less attractive.

George J. Kraft

The establishment of a minimum wage will bar beginners from getting a start in a factory where work is not all machine work. A beginner in my line (novelties) is an expense, not a help; for quite a considerable time the material spoiled is in excess of the value of the work turned out, and no doubt this is a fact in most factories.

H. P. Lansdale

A minimum wage is unfair to certain industries, where young men will very gladly work for the experience they are getting. Improvement can be brought about much better by investigation, agitation and education, rather than through compulsory laws.

D. D. Lescohier

It seems to me that something along the line of minimum wage legislation will be necessary, but I do not believe that we have yet worked out the proper technique for handling this proposition. I cannot see how any state in the union which at the present time has a minimum wage law will be able to enforce that law with the machinery which it has provided, and I very much question whether in most cases that machinery is of the type that is best adapted for enforcing such legislation. I simply make this general suggestion to call your commission's attention to the fact that the administrative problems with respect to the minimum wage are possibly the least understood of any of the problems connected with this proposition.

William H. Lough

The establishment of a low minimum wage is desirable as a means of raising our standard of citizenship. It is not desirable, and in my judgment cannot be defended, on economic grounds. The first effect of the establishment of a minimum wage would be to bar out a certain number of incompetents who are now employed. Most of these incompetents would doubtless be dependents and would be a burden on their families and on the community. The salutary effect would be in the probable reduction of the birth rate among the least efficient workers, and in the discouraging of the immigration of the lowest grades of workers.

These beneficial results would probably appear only in the next generation.

There are doubtless industries, such as department stores, which would be able to pass on either to consumers or to the manufacturers from whom they buy a portion of the increased expense resulting from the establishment of a minimum wage. In some cases this particular body of wage workers would be benefited at the expense of the rest of the community.

There are doubtless industries also in which a moderate increase in wages could be granted without having any perceptible effect on the development of the industries. In these cases the lower grade wage earners would be benefited by a minimum wage at the expense of the owners of the industries.

It should be clearly understood that a minimum wage will not and cannot (with the slight exception above noted) benefit anybody in this generation. It should be undertaken as a patriotic duty with the object of raising the level of succeeding generations.

It would be wholly inconsistent, from this point of view, to attempt to determine minimum wages for different industries. A general minimum wage should be established and both workers and capitalists should be left untrammeled to move from one industry to another.

Benjamin C. Marsh

A law regulating minimum wages is a "humanitarian" but stupid method of atoning for privilege. Probably it should be tried out simply to determine the fact that it is a failure, and must be a failure until the four measures (enumerated in the answer to question 4) at least, are carried out.

It should be noted, however, that there cannot properly be a uniform rate of wages for New York State, since both the real and nominal cost of living varies so greatly between New York City and the small manufacturing towns and agricultural counties of the state.

I do not see why there should be varying rates of wages for different industries, if the purpose of the enactment of such a measure is merely to secure minimum wages, since the physical requirements of the man who digs the ditch or the woman who works in a factory are substantially the same, and their intellectual re-

quirements should be approximately the same as those of the skilled mechanic and the typewriter or a woman who works as a model in a department store. Of course, the woman who works as a model or typewriter has to spend more for dress.

David A. McCabe

The establishment of a commision or commissions, with power to determine legal minimum rates of wages after investigation, would lead to an appreciable increase in wages without crippling the industries affected. The reasons for this view have been repeatedly advanced by economists. The reasoning is supported by the experience of trades in which wages are set by joint agreements covering nearly all workmen and employers, and by Victorian and British experience with government wages boards.

George A. McKinlock

I sympathize with the establishment of a minimum wage, although I feel that very careful consideration should be given to the subject before any general application of the theory should be attempted. I associate the minimum wage with the standard of living, and believe that every worker is entitled to full compensation and equitable participation in the products of his labor.

Almus Olver

There is no other form of action which can be taken besides the establishment of a minimum wage. Briefly, I might say that not until the employers are compelled by a power greater than themselves to grant a wage not inconsistent with the profits of their business — not greater than a reasonably intelligent and industrious man or woman is capable of earning, not less that the amount which we have so often held up as the least sum upon which one may maintain a decent standard of living in this country to-day — will we ever approach our ideal of a country in which there shall be as little poverty as it is possible in the nature of things to be.

I foresee all the difficulties which the opponents of such a measuse marshal against it, but I still believe that its advantages far outweighs its disadvantages.

It is no more necessary to keep the drone under the minimum wage that it is without it, and the increase of efficiency, self-reliance and energy of the worker who at last realized that his toil was bringing him, if not equal value for what he gave, at least a decent living wage, would more than compensate for the increased cost to the employer.

We may here cite as an instance, the increased production in the Ford plant as a result of the minimum wage plan put into effect by Mr. Ford. The same men, and the same number of men, in the same working hours turned out many more finished automobiles after this plan went into effect than they did prior thereto. More of our social problems would, I believe, yield to this treatment than any other which we might undertake. I am not at all certain but that in the increased independence of the family would be found ultimately a reduction of those charges altogether borne by the man of property in the form of what we call taxes, which go to provide hospitals, and hospital facilities, dispensaries, almshouses, out-door relief, etc., for those for whom society at present fails to provide sufficient remuneration that they may be independent. If we can give our working people a sufficient wage durign their working lives, with an opportunity of laying a little away to care for them in their old age, we shall have cut the cost of our charities in half, and the men who bear the increased cost by reason of the minimum wage will be saved an appreciable amount of it in the decreased cost of caring for the poor.

Alfred E. Ommen

Minimum wage legislation must be supplemented by provisions for the deficient; and how that is possible does not seem evident. The fact that there are some hopelessly and partly deficient is very evident, and no industry can afford to pay the difficient wages of the efficient.

There is a tendency of too much paternalism in our government. The government cannot consider this question from every angle, and there is grave danger of disaster to some business. Those who are engaged in the industry, especially if they have been so engaged for many years, are better informed as to its needs than those who give but superficial attention to it.

Edward D. Page

It is impossible to express in terms of money all the factors which enter into and determine the desire and interest of the working men to work; or the desire and interest of the employer to employ. Many kinds of light employment are recognized by the worker as disciplinary, instructive, and eventually leading to a living wage. It is desirable that such light employments be encouraged, even though at less than the living wage, for the reason that the bulk of their participants are young persons who, for the development of their characters, require the discipline of fixed attention on a given purpose, irrespective of the money pay. In education there is no definite line between school practice and employment practice; in fact, the latter is often of more value in mental training than the former.

The function of government in establishing a minimum wage should be to call conferences of workers and employers to discuss the practicability of a minimum wage in a given industry, and then to enforce whatever agreement is arrived at. So little is known about the subject that it would be foolish as well as idle to express an opinion in its favor or against. But to promote trade agreements and to enforce them after they are adopted is a proper governmental function; protecting those of either side of a controversy who are willing to live up to their engagements from those who are not. If there be a law on the subject it should be along these lines, promoting and permitting such conferences and agreements and safeguarding them after they have been entered into.

Maurice Parmelee

I am not prepared to say that minimum wage legislation is the best form of governmental action. The government might also act by regulating prices so as to diminish profits and to raise real if not nominal wages. However, I am not prepared to advocate any specific form of government action.

Raymond V. Phelan

A minimum wage for each occupation (with some consideration of differences of locality), to be established by an administrative body.

a. Women and children in particular are subject to wages that are socially undesirable and unlikely to promote the highest efficiency of the worker, because of little unionization, tradition, and timidity.
b. Minimum wage administration through wage boards serves to broaden, enlighten, and liberalize the views of workers, employers, and representatives of the public. Thus tri-party (workers, employers, and public) labor legislation and administration may be promoted. Our labor regulation by law will never be entirely successful until such tri-party understanding and earnest cooperation is secured.
c. Minimum wage laws may promote better business organization and more efficiency in workers. We may reason to this conclusion from the results of shorter hours legally enforced in Great Britain, as well as abstractly.
d. Minimum wage laws will serve to give the humane, far-sighted employer fair play.
e. Minimum wage laws will in time serve to establish higher standards for entrance into business and industrial life.

L. G. Powers

Real wages consist in part of money and in part what money secures. Governments can affect the money wage only by minimum wage laws. The actual wages are affected by general factory legislation, pure food laws, tenement house legislation and similar statutes, many in number.

Charles Rohlfs

Since the State — that is the people — cannot control the economic conditions of production and distribution, it exceeds its rights when it endeavors to legalize a charge (wages) in the cost of production and distribution.

While wages is the principal item in the cost of production, and the means of sustenance to the worker, economic conditions alone determine the value of the service rendered. Consequently, no one can rightfully determine for another how much or how little must be considered adequate compensation for a specified kind of service.

An employer pays the current price of wages. This price is created by causes over which he has little or no control. He buys labor as he would a commodity, and sells labor's product for as much more than he paid, as he can get. It is unnatural to make

a price (cost) by law which is in conflict with prevailing economic conditions.

Do you remember ever insisting on paying more for anything you bought than the price at which the thing was offered you? If to do so would be unnatural for you, the consumer, why should you try to make it natural for the producer, a consumer of labor?

We cannot afford to plan for a temporary relief when there is a strong probability that the result will be to eventually create a beggar class who can do nothing but work their side of the street, palm up. If you wish to do a real and fundamental good after you have got the school machine going — and this is in a class by itself — or even before you consider how the school can be made to give maximum instead of minimum results — institute old age and illness insurance — the insurance premium to come from the insured and to be controlled by the State. This is compulsory thrift.

I know that you cannot possibly think that you can legislate training, self-reliance, capacity, thrift, honesty, or character into people, nor that you can possibly tax all the people to make good the shortcomings of some of the people. Our almshouses, jails and asylums are sufficiently well filled now without going another step in that direction.

E. M. Sergeant

The establishment of a minimum wage by governmental action seems to me decidedly inadvisable, mainly for the reason that the minimum wage on which a person or family can live in comfort varies so greatly in different localities. A man receiving $1.25 a day in a small country town may be much better off than he would be at twice the wage in a large city. If the minimum wage were established to meet the conditions where the cost of living is high, it would impose an undue hardship on industries located in other places, and if based on low cost of living would be valueless where the cost of living is high.

Florence Simms

The establishment of a minimum wage is the best action. I see no other way for securing justice to a large number of girls. It will make for advance in efficiency and will permit a larger life.

Harrison B. Smith

I see no objection to the establishment of a minimum wage, provided there is at the same time a minimum standard of efficiency. I have long thought that government must cut into the established ideas of rights to private property. In doing so, however, it must at the same time, neither by omission or commission, recognize the threatened tyranny of labor organizations. There must be the one standard for all — a fair and equitable standard. The old idea that a man has the right to do what he pleases with his own must be abolished; but, at the same time, the threatened idea that a particular class of men can dictate what one can do with his so-called private property must not prevail.

G. F. Steele

I believe the best method to establish a minimum wage — if it is desirable to have one — is after a very thorough and serious investigation by some competent administrative body.

H. K. Thomas

I do not think government action is desirable. The establishment of a minimum wage involves questions which are fraught with extreme difficulty. The experiment was tried some years ago in Great Britain as regards miners, and the results are generally conceded to be unsatisfactory, inasmuch as in many districts fewer men are employed so that the system is unfavorably re-active on the worker.

W. H. Thompson

If a government minimum wage is deemed necessary it must not be construed to become the maximum wage. There is about as much need for a maximum wage as for a minimum wage; in fact there is far more justice in prohibiting salaries of $4,000 or over being paid to any one than there would be in keeping the minimum wage below $3 per day.

A. C. Vandiver

The best method of ameliorating the existing inadequacy of wages is the establishment of a minimum wage to be determined

by a quasi-judicial body after thorough and scientific investigation of all the conditions existing in the trades to be affected. My reason for favoring the establishment of a minimum wage is that all employers would thereby be equally affected, and the least harm be done both to employers and employees.

O. J. Weeks

I believe a minimum wage would be one of the worst propositions that could be advocated. It would tend in a great measure to put the honest industrious worker on the same plane as the workers who are seeking every minute to shirk their duty; and there are some workers who, if they knew that they were protected by a minimum wage, would just work enough to hold their positions and no more.

Ansley Wilcox

Not believing that government action is desirable or practicable as a direct means of raising wages, I do not at all believe in the attempt to establish a legal minimum wage.

The government can do much, within reasonable limits, in the way of improving working conditions, and thus indirectly may increase the efficiency, lengthen the lives, and improve the wages and living conditions of employees. But legislation fixing rates of wages seems to me to be destructive of the liberty and independence of the people, both employers and employees, and leading to far more harm than good.

Mornay Williams

My judgment is that an establishment of a minimum wage is probably the best method of introducing government action, but more careful investigation must first be had. In order that any attempt at fixing a minimum wage should be successful, if such an attempt were made before the conditions were very thoroughly understood, the law would probably degenerate into a dead letter, which would be worse than no action at all.

QUESTION No. 6

If the establishment of a minimum wage is desirable should its application be limited to women and minors? A. Why?

D. B. Armstrong

Although the minimum wage is an expedient measure and along with better pay, short hours, welfare work in factories, etc., is palliative and not truly corrective, I can see no reason why it should be limited to women and minors.

G. L. Arner

No. Economic laws apply with equal force to all workers. The male worker can no more govern his wage than can a child of 12, unless he possesses organizing or directing ability and can lift himself out of the ranks of what is commonly regarded as the working class.

Gertrude Barum

No. *All* should be protected by this law.

George Gordon Battle

I do not believe the establishment of a minimum should be limited to women and minors, although perhaps it might be tried first for their benefit, as they are the more helpless classes of the community.

Emma B. Beard

No. Because many children are forced out of school and into industry and many women are compelled to neglect their homes and children by going to work in order to supplement the male wage earners' income. The test case now being used to prove the constitutionality of the law prohibiting night work for women is but one instance of this.

Holmes Beckwith

Sex lines should not limit such legislation. The difference is one only of degree. Constitutional and other legal barriers will probably be less for legislation of this sort for women and children than for men also.

Harry Best

Yes, as a beginning, because it is experimental, and women and minors are confessedly in greater need.

Roy G. Blakey

I would limit the application of the minimum wage to women and minors in the beginning. It has already been mentioned why they are particularly liable to exploitation and conditions are at present worse with them than with men, as least so far as the interests of society are concerned. But the same logic which would make it apply to them could be applied to men in some cases, through usually the necessity or exigency is less urgent. After we see how it works in the case of women and children we will be in a better position to know what to do and how to do it as regards men.

Edward M. Brewer

I am very much opposed to the establishment of a minimum wage, whether limited to women and minors or working men.

J. L. Burritt

The establishment of a minimum wage would work an injury to women and minors as well as to male employees, and for identically the same reason.

Charles L. Chute

It should apply to all workers, regardless of age or sex.

Victor S. Clark

Principally to women and minors, and to adult male workers in occupations subject to the competition of women and minors and presenting obstacles to trade organization.

Miles M. Dawson

Though I am of the opinion that the principal value of the establishment of the minimum wage will be realized in the case of women and minors, I do not think that it ought to be so confined. I am of this opinion because on principle I do not think such limitation could be defended, and also because there have been

serious mischiefs at times when there was great unemployment, in the matter of beating down the wages of adult males below the point which would enable them, even if fully employed, to maintain themselves independently.

Carroll W. Doten

At present I assume that it would not be constitutional in our American states, except in the case of women and children.

Eliza P. Evans

The poorly paid class of working men need a minimum wage law as badly as do women and minors. I see no reason for any sex distinction, except to get the law within the police power, and I believe the sooner we can bring our courts to see that men as human beings are entitled to the protection of the police power of the state in the broader sense, the better for human legislation. If the same results can be accomplished through organization, then it is better to do without minimum wage legislation, even though the organization method take longer to accomplish the same results. But minimum wage legislation will tend to better the condition of the great class of persons who are not ready for organization, and who ought not to be allowed to suffer while they are being educated for organization.

Joseph Frey

At first, yes, because this would be simpler and easier.

C. E. Gardiner

Where trade union organization exists or is available, no minimum wage fixed by outside authority is desirable. This would, to a large extent, confine the operation to women and minors, with whom and where or when, for any reason union organization is impracticable. The difficulties attending successful organization in their cases are sufficiently obvious.

F. H. Gilson

No.

William P. Gone

The limiting of a minimum wage to women and minors would be of advantage on legal grounds and because the damage might be less extensive — women and minors are more likely to have someone, aside from the poor department, to support them, if they lost their positions; but as a practical matter, women and minors would undoubtedly be the ones most affected in any case.

Bolton Hall

The minimum wage should not be limited to women and minors. Why should it be? If it is an efficient remedy, all need it.

W. R. Heath

Certainly the government should be more solicitous with reference to the wards of the State than people presumed to be capable of taking care of themselves, and should be more solicitious of the mothers of society than of men. The principle, however, of State interference as a last resort should prevail.

Mary Alden Hopkins

No, because

1. Unskilled laborers are frequently unorganized.
2. Skilled laborers can raise wages frequently only by strikes and violence.

W. T. Jackman

No. Men are equally powerless in the face of the present industrial system.

Alvin S. Johnson

The principle of the minimum wage should not be limited to women and minors, although most obviously needed in industries employing large numbers of women and minors.

Wilford I. King

Yes — if at all.

D. D. Lescohier

A minimum wage law should not be limited to women and minors. I believe that the problems of our wage situation for the adult male with a family dependent upon him are a good deal more pressing that the problems with respect to women and minors. In the various states where minimum wage commissions are promulgating wage rates they are establishing rates for immature girls and young women which are almost as high as the wages of adult males with families dependent upon them in those same states. I cannot believe that if a department store girl is worth $9 a week to her employer, a man in his full strength and giving his life permanently to industry and with a family dependent upon him is receiving a proper wage at $12 a week.

William H. Lough

As the first step, I should advocate a minimum wage limit to women and minors. After it has been tested and the principle has become established, it will be easy to extend it by degrees to men. It is desirable in making any such changes to avoid disturbing industries unnecessarily.

Benjamin C. Marsh

For the present at least, the establishment of the minimum wage should be limited to women and minors, because neither of these have votes to influence legislation and to secure the elimination of privilege and the repeal of laws which prevent competition for labor and, therefore, increase in rates of wages.

David A. McCabe

At present, it should be limited to women and minors, and this because it would be in this country experimental legislation and because of constitutional difficulties. I think it would be better to try it first in the restricted field. In principle, however, the family living wage is the soundest aim, and it would involve legal minimum wage rates for adult males as well.

George A. McKinlock

I think there should be no limitation to the application of the minimum wage when established.

Henry T. Noyes

In our industry we think that the minimum wage is desirable for all employed. We believe that this plan gives better satisfaction and contentment to both employee and employer. It insures the employees a wage very close to their requirements and also assists the employer in automatically selecting people who are adapted to the work in the establishment. We think that the men are just as much affected, and sometimes more, than women and girls in our industry, especially married men as against pin-money workers.

Almus Olver

Emphatically "No."

Alfred E. Ommen

Discrimination for any class is undesirable. If the establishment of a minimum wage is a wise thing to do, it should extend to all classes of workers, and standard prices for work done should also be established to meet the standard of wages.

Edward D. Page

What I have said above would militate against the establishment of a minimum wage by statute for anybody.

Maurice Parmelee

Assuming the desirability of the minimum wage, I would say that, while the underbidding of adult male workers by women and minors at the present time may appear to make the minimum wage of special importance for women and minors, I am quite sure that, in the long run, and probably at present as well, the minimum wage is of as much if not more importance for the adult male workers. I would say that minimum wage legislation should, as a rule, be applied to the whole wage-earning class and not to special groups. By this, of course, I do not mean that there should not be differences between different trades.

Raymond V. Phelan

Yes, at least for the present.

a. The need of the minimum wage is more clearly established with respect to women and children.
b. We need experience and education in the matter of state fixation of wages.

Harrison B. Smith

Women and minors should be no more protected than men and adults.

G. F. Steele

The establishment of a minimum wage should be limited to women and minors.

H. K. Thomas

I can see no reason why the wages of women should not be determined by the same factors as I have mentioned under Question 1. The same thing may well apply to minors except that from a psychological viewpoint, it may not be desirable to place comparatively large sums of money in the hands of young persons who are without any responsibility.

W. H. Thompson

If established, it should be applied to every worker alike regardless of age or sex; if not, employers would cater to those not affected by the law, whom they could exploit the most.

A. C. Vandiver

The establishment of a minimum wage should not be limited in its application to women and minors but should be extended to all workers without regard to sex or age.

O. J. Weeks

If a minimum wage should be enacted, I see no reason why women and minors should not be protected by its benefits as well as men.

Ansley Wilcox

Not believing in the establishment of a legal minimum wage for any class, I cannot answer your sixth question directly. There is more excuse for talking about this in the case of children, and even of women of all ages, that in the case of men; but, after all, the reasons for any such distinction are inadequate, and no such distinction should be made.

Mornay Williams

I would say that when conditions have been arranged, it is probable that the minimum wage should first be made applicable to the cases of women and minors, for the reason that the tendency of the courts to preserve the right of private contract would be less likely to operate against the determining of such a scheme as the fixing of the minimum wage to be unconstitutional in the case of these workers than in the case of men.

QUESTION NO. 7

If you believe in the establishment of a minimum wage by governmental action, what administrative agency should fix the minimum?

a. How should such body be composed (numbers and personnel)
b. How chosen and appointed?
c. How financed (appropriation, salaries, expenses, services, etc.)?
d. What powers (as subpoena, administration of oath, right to enter, examine books, etc.) should be granted?
e. Upon what grounds should investigations be initiated?
f. Should the minimum wage when declared be made compulsory, or if not, how shall observance be secured?
g. What limitations, if any, should be imposed upon its rulings?
h. Should there be any subordinate advisory body (as the wage boards for special industries in Massachusetts)?
i. How should such advisory body or wage board be constituted?
j. How chosen and appointed?
k. What should be its functions?
l. What compensation, if any, should be given members?

Lloyd V. Ballard

A body like the Interstate Commerce Commission as to number, personnel, powers, method of appointment, salaries, etc., could well administer a law of this sort, i. e., a law fixing an efficiency wage and providing for its enforcement.

L. Barnet

If a minimum wage be established by governmental action, the Massachusetts plan carries with it fewer objectionable features than any other.

George Gordon Battle

The administrative agency required to fix the minimum wage should have broad powers subject to review by the courts only upon the ground that the minimum wage had been fixed so high as to amount to confiscation of the property of the employers interested. I think that such commission should be appointed by the Governor of the State, subject to confirmation by the Senate. Its expenses

should be met by the State. It should have powers of subpœna, administration of oath, and the right to enter and examine books. Investigations should be initiated upon some responsible verified complaint or petition, or upon the motion of the Commission itself. The minimum wage, when declared, should be made compulsory. The limitation upon the rulings of the Board should be as I have indicated. There might well be subordinate advisory bodies, i. e., wage boards for special industries. These advisory bodies or wage boards should be appointed by the main body of the commission. The function of the advisory body or wage board should be to examine conditions in or relating to the particular industry to which it might be assigned, under the direction of the Commission. Its members should receive reasonable compensation. In general, it seems to me that our Workmen's Compensation Commission affords a fairly good model from which such a body, for the purpose of establishing minimum wages, with subordinate advisory boards, might be constituted.

Harry Best

a. This is not a vital point. I should favor a commission of about five members, of whom one might directly represent employers, one directly the workers, a third a professor of economics in a university, a fourth a practical social worker, and a fifth a business man.
b. By the Governor, with confirmation by the Senate.
c. Moderate salaries and expenses.
d. Practically full powers.
e. Upon a demand of evil conditions from the workers or the public.
f. Compulsory for " parasitic industries," and by advertisement of others.
g. Limited judicial examination and review.

Roy G. Blakey

I have not worked out in detail in my own mind just how a minimum wage law should be administered, and this is the most important point of all, for if not properly administered the best of laws will be failures. This is where we have failed and continue to fail most frequently. Failure in administration is perhaps the biggest indictment against our governments, from federal

government down, and especially in State and municipal administration. Most of our laws break down at this point.

I think there should be a comparatively small central commission, composed of really competent men, removed from all suspicion of political taint. Perhaps it is almost necessary to have upon it some one closely connected with labor and some one who understands the employers' point of view, but they should be men of large caliber and not narrow partisans; they should remember that they are representing the public, the State, and not consider themselves advocates, the one for labor and the other for capital. Besides these, I think it would be well to have on this small board a big caliber economist, not merely a book man but a real economist, with some practical experience, broad training and a wide outlook and good common "horse sense."

This central board should have the assistance of advisory boards for special industries and all should have broad powers, powers of subpoena, to administer oaths, right to enter, examine books, etc.

Both workmen and employees should be given proper hearings and rights of appeal, but there should be no limits upon final rulings other than our usual constitutional guarantees. It is of very great importance that appointments be so safeguarded that capable and public-spirited men will serve and will be free from partisan politics.

Charles L. Chute

I favor the system being successfully applied and extended in England.

Victor S. Clark

Detailed answers to these questions cannot be given, because they would be affected by local conditions in different places. In general, I should say it would be wise to follow the experience of the State of Victoria and probably of Great Britain.

Miles M. Dawson

I should personally be in favor of the establishment of minimum wage by legislative act, but if that is not acceptable, would not oppose the establishment of a commission, preferably in my opinion to be composed of three persons: one, a representative em-

ployer; one, a representative employee; and one either a citizen selected on account of particular fitness because of his interest in civic matters or a judge known to be fully in line with the most important advances in social legislation. If such commission is to be created, it should be appointed by the Governor, with expenses paid by the State, and if it is to investigate, should have the powers suggested in subdivision D of the question and should initiate such investigations wherever it deems it wise and proper. The minimum wage when so declared should be compulsory, and violation should be punished by fine or imprisonment. I have given no consideration to the matter of whether an advisory body should also be appointed.

Carroll W. Doten

I am not prepared to go at length into the details as to how the minimum wage should be determined, but I assume that some modification of existing laws, such as that in Massachusetts, might serve as a workable plan. I think the Massachusetts law is less efficient than it might have been if there had not been such strenuous opposition to its passage. It was made what it was in order that it might not be killed by this opposition. Doubtless it will be strengthened from time to time and finally become an effective measure.

Elizabeth Dutcher

a. Body to be composed:
    1. Minimum wage commission (appointed by Governor).
        3 representatives of labor (at least one a woman).
        3 representatives of employers.
        3 social workers (as representing the "public") (at least one a woman).
    2. Trade wage boards.
        3 employees.
        3 employers.
        3 social workers (women as above).

c. Expenses only.
d. All powers indicated.
e. Upon a written request from 25 employees in a trade.
f. Compulsory.
g. Exemptions should be arranged for apprentices, for the aged, and certain kinds of defectives (crippled and blind).
h. Yes — wage boards for special industries.
i. As indicated above.

j. Chosen by Minimum Wage Commission from candidates nominated by members of the trade.

k-.l. As above, except where employees give their time to such a Board, and there is no trade union to recompense them. Under such circumstances, they should each be allowed to charge $2 a day and traveling expenses as part of legitimate expenses of Commission.

Eliza P. Evans

While the Minnesota law provides for a commission of three persons, a commission of five would be better,— adding to our law a person representing the public and particularly trained and interested in economic problems. Add also an employer, who is not an employer of women. Often the successful business man who comes in contact only with men views the industrial problem in a much broader way than does the man who employs women.

A wage commission should be kept out of politics as much as possible and how to do this I don't know, for all methods fail at times. The commission should work in conjunction with the State Labor Department and thereby save the expense of duplication of work. The amount of the appropriation would depend on the character of the field to be covered. North Dakota would not need as much money as Massachusetts. We can get along here on $5,000 but could do better work if we had $8,000.

A secretary or other paid worker who will take charge of the work of the commission and be responsible for what is done, together with an assistant, a stenographer and a statistician (the latter is only needed part of the time) are absolutely necessary if any amount of good careful work is to be done. Of course if the commission could use the persons employed in the labor departments the salaries of these people could be used for other work.

The wage commission should have full power to subpoena witnesses, administer oaths, the right to enter places of employment and the right to examine books. There should be a provision in every minimum wage law requiring all employers to make an annual report to the wage commission, the form of said report to be prescribed by law and the said report to cover the items of wages, hours, number and age of employees, and number of ap-

prentices and learners. The gathering of this information is expensive and slow, while the expense of making a report is almost nothing to each employer.

Section 3 of the Minnesota law should be so amended as to require the keeping of the age of the employee.

A more definite measure for the wages of apprentices and learners should be fixed (see section 8 of Minn. law.), if the intent of the law is to pay learners and apprentices a less wage than workers of ordinary ability.

Section 2 of the Minnesota law is very satisfactory.

The wage commission should be allowed to fix wages and hours. Section 5 of the Minnesota law places a very good limitation upon the powers of the commission.

Wage boards are not very satisfactory at first, but I believe they can be developed into a very useful advisory body, particularly after we are sure that minimum wage legislation is constitutional. Until that time I believe the employers are bound to refuse to co-operate for fear of committing themselves to the minimum wage idea. Employers and employees should be represented on each wage board and a member of the wage commission should attend all meetings of wage boards. Otherwise most of the information brought out at such meetings is lost. A few representatives of the public make the wage board better because of their disinterested point of view.

The wage commission should have the power to appoint the wage boards. Employees from industries directly affected will never be free to help much on wage boards because of fear of the employer. We find that women who will represent the employees and who are not affected by the action of the wage board can much better represent the employees than can the employees themselves.

The functions of a wage board should be to make recommendation of wages after due investigation and recommend period of time for apprenticeship.

All members of the wage commission should receive a per diem rate for time actually spent on minimum wage work. The minimum wage idea is that the laborer who is worth hiring is worth decent compensation. It is hard to find public servants who will do their duty well and free of charge.

Joseph Frey

Commission by state, or if possible by nation.

C. E. Gardiner

The administrative agency should consist of a body composed of selected representative employers and employed, acting under State supervision and control. This body would decide to what industries the minimum wage legislation should apply, and, working with subordinate bodies similarly constituted for each scheduled industry, would operate the law.

W. R. Heath

I do not believe in the establishment of minimum wage by governmental action at this time. I believe it would be highly detrimental. However, I believe that what good people wish to accomplish by the minimum wage is right, and I believe that State should through an investigating commission ascertain the facts and encourage the gradual advance in wages of certain industries, and such commissions should have sufficient power to make their suggestions felt with industries that may need pressure. There is quite as much work to be done, however, with and for the employee as with the employer if we are to come to anything like a fair solution of the great industrial problem in its relation to the employee, and the employer and society as a whole.

Belle Lindner Israels

a. Men and women representing capital, labor and general public.
b. By Governor of State.
d. Full powers.
e. Joint requests from workers and employers where organizations exist.
f. Compulsory, of course.
g. Apprenticeship with efficiency standards.
h. Yes.
i. From organizations of employers and employees wherever possible.
k. To determine equitable standards of wages.
l. Per diem and traveling expenses.

W. T. Jackman.

In most cases, it would be better to leave the fixing of the minimum wage to some body appointed by the State Legislature. It should consist of, perhaps, five persons; one a representative of labor, one a representative of the employers, one an economist, one a social worker, and an able judge as chairman. Their salaries should be generous enough to place them beyond the reach of influence by either side; but along with a suitable salary, there should be honor involved in the proper discharge of public duties. When the minimum wage has been decided, it should be made compulsory, subject, of course, to the rulings of the State Supreme Court. No subordinate advisory body should be necessary in most cases, and the simpler the administration the more effective it would be.

Alvin S. Johnson

The administration of the minimum wage should be vested in a board of not more than five persons, representing the interests of labor and capital, and of the general public. It would be desirable to have the board consist of representatives of the trades affected, but at the outset this would be impracticable, since neither employers nor employees have an organization, nor can they easily effect one. Probably the best immediate plan would be the appointment of four members of the board by the Governor of the State, from lists of nominations submitted by the trade unions and by the commercial organizations, the four to appoint a fifth, neither an employer nor an employee. Salaries should be sufficient to command a high degree of ability, and liberal appropriations for investigations would be requisite. Right to subpoena witnesses and take testimony under oath, to examine books, etc., would be indispensable. Investigations might be initiated at any time by the board; if advisory boards were constituted (and this should be done as soon as possible in each industry subject to the act) such investigations might best be initiated by the advisory boards.

The minimum wage when declared should be made compulsory.

The advisory boards should consist of equal numbers of employers and employees in the trade affected. They should be elected, and should receive no other compensation then expenses

and a per diem sufficient to keep service on the board from being onerous to the representatives of the employees. The function of such boards should be chiefly to initiate investigations by the administration board. Ultimately, however, it would be desirable that the advisory boards develop into the chief machinery for determining the minimum wage.

H. P. Lansdale

Should a minimum wage be established, I think it ought to be greatly limited although the governmental board established ought to have full power along the line of investigation.

D. D. Lescohier

I am somewhat in doubt (as indicated in my answer to question number four) as to just what sort of a governmental organization should handle the minimum wage question. I seems to me that the simplest problem of all the problems is that of establishing the wage. In a country where we have been able to work out the regulation of gas and electric rates, railroad freight rates and hours of labor, and other labor legislation, I do not believe that there is any practical difficulty which will prevent us from determining what is a proper minimum standard of wages for any given type of workers when a properly qualified commission takes up the study of that question. Such commission should have complete power of investigation. It should be appointed for a long term of office, and if possible, under some system of civil service. It should be composed of not more than three persons and should be able to hire such expert technical assistance as it needs and it should have the right to investigate on its own initiative and to promulgate wages on its own initiative as well as on the request of interested parties. I think that a minimum wage, if established, should be made compulsory. Recourse should be open to the courts upon questions of law.

The commission should have the widest possible powers of discretion in the appointment of such boards as the advisory boards now used in Massachusetts and other states, and I would call your attention to the provisions of the Minnesota law as being quite

suggestive of the way any such boards might be chosen and constituted.

To me, however, the real problem appears to be the problem of compelling all employers affected to comply with the provisions of the minimum wage law so that every employer who was complying could know certainly that his competitors were also complying, and the dishonest or law defying employers were not obtaining a competitive advantage of him by violation of the law. If in the interests of the workers we are going to compel the employer to pay a certain minimum wage then we should in justice to the employer see to it that no honorable and law abiding employer is exposed to the cut throat competition of some employer who is violating the law. Furthermore we will have to work out the problem on a wide basis because if we compel an employer engaged in manufacturing a given product to pay a certain minimum wage, we must see to it that we compel employers in other lines of business but selling a competing product to pay a like rate so that they may not win the market away from him. For instance we may conceive a manufacturer of jewelry is competing with a manufacturer of women's waists for a sale to a woman. Now if one or the other of these is compelled to manufacture at a comparatively high labor cost, the other may be able to make so low a selling price as to get the market away from an employer whom we at first thought would not think him to be competing with.

William H. Lough

The proper agency to fix a general minimum wage is the State Legislature. There is no occasion to my mind for an administrative body investigating separate industries and fixing or attempting to fix different standards for different industries. The idea of creating such an agency is based on the fallacy that the minimum wage will benefit working men.

Benjamin C. Marsh

a. there should be at least two bodies; one to have jurisdiction in cities of the first and second classes, in the State, and another for the rest of the State.
b. The members should be selected from the Civil Service list. The Civil Service Commission should prepare the ex-

amination for candidates after careful consultation with manufacturers, labor leaders and those engaged in social work.

c. The cost should be met by the State through an annual appropriation. The salaries should be adequate but different for the two different classes, while expenses, of course, should be met.

d. The powers mentioned should be granted.

e. Investigation should be initiated upon request either of manufacturers or workers themselves.

f. Minimum wages when determined should be made compulsory, subject to change, if conditions change.

g. The rulings of the commission should be final.

h. The creation of subordinate bodies, as suggested, seems wise.

i. These advisory bodies should be constituted of representatives of employers and employees in the various industries.

j. They should be selected by representatives of employers and employees of each industry. Their functions should be to give advice either voluntarily or when called upon by the administrative commission; but should not receive any compensation, merely expenses if obliged to travel.

David A. McCabe

a. I should favor a small body, three or five, one of whom must be a woman and one an employer or representative of the employing interest generally.

b. By the Governor or the courts. The board must be kept free of party considerations.

c. The appropriation should be adequate for the needs of the board or commission; if possible, the amount should be variable, with the needs of the commission.

d. Full power, such as a court has.

e. Upon representation by responsible parties that the wages are below what can be considered a living wage, for a considerable proportion of the workers in that branch of industry.

f. Compulsory.

g. No appeal on the facts (as to what the wages actually are).

h. A subordinate body for each occupation investigated. This body should investigate and recommend to the board or commission.

i. It should be made up of workers, employers and representatives of the public in equal parts. It should aim, as far as possible, at securing an agreement between the em-

ployers and workers on this sub-commission as to what the minimum rates should be. In case piece rates are to be set some such body would seem to be essential. I should await recommendations from the board or commission on "j," "k," and "l" as to the subordinate body.

George A. McKinlock

In regard to an agency by which the minimum wage should be established, I think that it might be done by a commission made up of those interested in each industry on which the employers, workers and the Government would be represented.

Henry T. Noyes

While we believe in a minimum wage in general we are not prepared at present to advocate any definite Government action covering all industries.

Almus Olver

There should be a board appointed with powers to hear arguments, fix wages and enforce obedience to its decrees. The details of this I have not had time to consider fully but briefly I should say that:

a. The board should be composed of a representative of the labor organizations, a representative of the manufacturers' associations, a capable social worker, an attorney of approved standing and ability and such other representative citizens as might be deemed advisable.
b. Appointed by the Governor.
c. Financed by State appropriation.
d. They should have powers of subpœna, administration of oath, power to examine books and such other powers as might make it advisable for them to most fully arrive at a just conclusion.
e. Investigations should be initiated upon request by petition of a certain number of workers in any particular industry.
f. It must be made compulsory.
g. There should be no limitations to rules, except where same might conflict with established statutory restrictions or constitutional inhibitions.
h. I do not deem a subordinate advisory board necessary.

Alfred E. Ommen

I find that the members of the Typothetæ are not in favor of Governmental action fixing a minimum wage.

Should it, however, be done, then the answers to the subdivisions of question 7 are as follows:

a. Two employers, two employees, one merchant, the latter not interested in the industry represented.

b. Preferably by the organizations of employers and employees, the fifth man to be selected by both sides.

c. The manufacturing and business concerns of the State have burdens enough, and if such a proceeding were desirable then it should be paid for by the State.

d, e, f, g, h. The State should not have the right to examine the books and accounts of the individual, simply because he happens to be an employer. It might just as well examine the wage earner as to his manner of living and insist upon his living in a different way or spending his money only in a certain manner.

This whole proposition seems to be aimed at the employing class in favor of the working class without any reason for it. If a minimum wage were established, it should be suggestive, rather than compulsory. A compulsory law would necessitate maintaining or creating an expensive set of officials of whom the State seems to have too many already. An advisory board would not be necessary, but if it were established then it should consist of equal representatives of employers and employees.

In order for such a law to work equitably, it would appear that it should be a national and not a State law. If there was a minimum wage law in the State of New York compelling employers to pay minimum wages to inefficient employees, which minimum was, say $10 a week, while in New Jersey and Connecticut there was no such law, the manufacturer in the other State could easily undersell and underbid the manufacturer in the State of New York and produce his product at less cost.

A great deal of printing is now sent out of New York to other parts of the country because it can be produced cheaper on account of lower wages. Wages in the printing industry is the most important item in the cost of production. There never was a time when there was less efficiency among workers than there is to-day.

Much of this has been caused by paternal legislation, such as this. There seems to be a tendency to destroy initiative and hard work. Our country became prosperous without these laws. To pay a young man or young woman a minimum wage whether they do good work or not will generally result in their not doing good work. It puts a burden on the man and woman who have real ability and are willing and anxious to get on. The wages of the efficient will have to come down in order to pay the wages of the inefficient. Under the present system, many concerns in slack times carry employees along even though there may be little to do, but under a minimum wage the moment there was only enough for the efficient the inefficient would be thrown out of employment.

Maurice Parmelee

I am not prepared to answer most of these questions specifically. I would only suggest (in connection with i) that an advisory or wage board should invariably include one or more trained economists and sociologists.

Raymond V. Phelan

a. A commission of three members: representing employer class, employee class, a State labor officer.
b. Appointed by Governor.
c. Appropriation, actual expenses to commissioners, a paid secretary.
d. All powers of subpœna, etc.
e. Commission should make an initial investigation (preferably through tri-party wage boards) of each occupation, and subsequent investigations upon request of workers, employers, or citizens.
f. Depends upon attitude of State's courts. Compulsory where feasible, otherwise publicity as a penalty. Publicity has the peculiar moral value of throwing enforcement upon consumers.
g. Court appeal on questions of law.
h. Yes, subordinate boards help to facilitate administration and are of marked educational value.
i and j. By appointment by commission upon nomination of workers, employers, and the public, or without such nominations if they are not forthcoming. Representatives of the public should be comparatively few in number.

1. The public viewpoint is rare in the United States.
2. The public viewpoint is often misunderstood to be pro-worker in its outlook.

Three supposed representatives of the public on Minnesota wage boards proved to represent the old, conservative, narrow-minded eighteenth century employer viewpoint.

k. Investigative and recommendatory.
l. No compensation for members but the use of investigators and office help to be supplied by the commission.

Harrison B. Smith

I have not sufficient information to suggest answers to these questions except that if Government proposes to intervene between labor and capital, it must not limit the benefits of its intervention to that particular laboring class which happens to be organized. This is the danger which legislative bodies have not seen, and which is wrecking the good intentions of those who are undertaking to solve these problems. I believe fully in the organization of labor, and I believe in the governmental protection of labor, but I do not believe in the protection of labor organizations as such.

Florence Simms

a. A commission of three or five members. Surely one woman should be on the commission, and if possible she should be from a labor organization. The employers, the workers and the public should all be represented.
b. By the Governor.
c. By annual appropriation.
d. All of the authority mentioned.
e. Upon the initiative of the commission or on petition by outsiders.
f. It should be compulsory.
g. Subordinate advisory bodies such as Massachusetts has, would be advisable.

G. F. Steele

An Industrial Commission should be created in each and every State, to take complete charge of matters relating to compensation insurance, labor, and wages. Such a body should be composed of appointees of the Governor of the State, and should not

be more than three in number. This commission should be paid an adequate salary, to attract high-grade men to this position. They should have full powers, as stated in your question.

W. H. Thompson

The legislative body should set the wage, based upon recommendation of the commission making the investigations.

a. About the number now on commissions; at least three-fourths of them to be selected from the workers themselves.
b. Preferably, elected by the people.
c. By appropriations from the state funds.
d. Equal to that of the highest courts.
e. Common justice and fair play.
f. Yes.
g. None.
h. No.
i-j-k. Not necessary; as high as any other commissioners.

A. C. Vandiver

The minimum wage should be established by a quasi-judicial body deriving its authority from the State:

a. Such body should be composed of seven persons, three of them employers of labor, three, wage earners, and the seventh a lawyer detailed for that purpose from the office of the Attorney-General of the State.
b. The members of the Board should be appointed for a term not less than three years except in the case of the representative from the office of the Attorney-General, who should be detailed to that Board by the Attorney-General at the commencement of his term of office.
c. The salaries of the Board and its other expenses should be paid by the State out of the General Tax Fund.
d. The Board should be vested with the power to subpoena and administer oaths and have the same visitatorial powers for its lawful purposes as the State has for other purposes.
e. Investigations by the Board should be initiated upon the petition of either wage earners or employers of labor.
f. The minimum wage when declared should be made compulsory and its observance secured by declaring void all contracts of employment in violation of its provisions and authorizing the maintenance of an action against employers by the employee to recover the reasonable value of his

services, but not less than the minimum paid. In the case of corporations the minimum paid might also be enforced by subjecting the corporation to liability to forfeiture of its charter.

g. The rulings of the Board should be subject to review in the courts upon certiorari only in the event that they unlawfully deprived the employed of his property or otherwise violated his constitutional rights.

h. There should not be any subordinate advisory body but the Board should have the benefit of the advice of experts in the industries concerning whose wages they are to make regulations.

1. Members of the Board should be paid at the rate of about $10,000 per year.

Ansley Wilcox

As to agencies to fix minimum wages, I do not believe it possible to construct, or even imagine, any agencies which would be effective and safe.

QUESTION NO. 8.

What effect would a minimum wage have —

a. On the employer or industry affected?
b. On the workers affected?
c. On any particular classes of either?
d. On the liberty of action of the workers?
e. On the opportunity of obtaining a higher wage than the minimum?
f. On the workers who are inefficient or incompetent?
g. On the regularity of employment?
h. On the price of the product of the industry affected?

NOTE.— If an employer, please state what you believe would be its effect in your particular business, mentioning what that business is.

D. B. Armstrong

I believe that the minimum wage tends to eliminate industries which are existing because of the fact that they are able to pay an indecent rate of wage. These essentially parasitic industries should consequently be forced out of the general field of industry. In the same way the minimum wage would have the desired effect of elevating the efficiency of the workman on the whole, for it tends to eliminate the inefficient and incompetent. It removes the unfit from competitive industry; it points the way to the necessity for State care and responsibility for those unfit; and, above all else, emphasizes the desirability of proper training for industry in order to reduce the army of the incompetent. Because of increased efficiency, both of the workers and of industrial methods, the price of the product of the industry, it might be expected, would be reduced, especially under circumstances which would permit of an adequate governmental supervision over the industry for the determination of a reasonable distribution of the profits.

G. L. Arner

a. There would be a tendency to eliminate mechanical hand processes now done by cheap labor and to substitute machinery. Prices of the product might be increased to pay any increased cost of labor.
b. The minimum wage will throw out of employment many of the lowest paid workers and it will be necessary to find

other means for their support. The cost of the increase, if any, in the total sum paid in wages would eventually be borne by the consumer. The greatest advantage should come through the elimination of the lowest paid class of child and woman labor. The more efficient adult workers, relieved of the competition of their wives and children would command larger wages, leaving the family income as great as at present, with much more desirable conditions of life.

d. By being put in a stronger position economically, the laborer would tend to gain greater liberty of action.
e. There might be a levelling tendency, at first at least — a tendency to cut out the higher paid workers in order to make up for the greater sums necessarily paid to the lower paid employees, but in the long run I do not anticipate much change in this regard.
f. If a worker cannot produce enough to pay his wage and a certain amount of profit he will be thrown upon public charity.
g. It should tend to make employment more regular by eliminating a large part of the reserve labor army of relative incompetents who are pushed into service now in boom times, and who make possible the production of more than the consumers are able to buy, thereby preparing the way for a business depression.
h. The price of the product might be increased in some cases.

Lloyd V. Ballard

The first effects of a minimum wage would doubtless be a reduction of the profits of the employer (this would probably be only temporary), and a curtailment of industry (this would probably be more permanent).

The number of workers employed would be very materially reduced and the average skill of the employees greatly increased.

Some employers, particularly those employing a large force of cheap or unskilled labor, would be forced into bankruptcy. Large quantities of cheap labor would be forced out of employment until such time as they became skilled enough to earn the minimum wage. The liberty of the action of the workers would be affected to this extent, although employers would, in many cases, obviate the aim and purpose of the law by refusing to recognize increased skill (limited supply of such skilled labor would tend to offset this

tendency, however), or by refusing to pay more than the minimum wage to a large body of workers who might be worth something more to the employer.

Inefficient workers would be thrown out of employment with no means of making themselves more competent in order that they might earn the minimum wage.

The establishment of a minimum wage would have no effect on the regularity of employment, for the quantity of employment depends upon the nature of the industry and the quantity of business to be done at any particular time. This latter, particularly, can not be regulated by laws imposed by any body of men.

In regard to the effect of a minimum wage on the price of the product, there can be but one answer. Such a wage cannot fail to raise the price of the product since it necessarily increases the cost, both actual and potential, of producing that product. It is true that the product itself would probably be of a better grade eventually, if not immediately, but even then a higher price would be charged for this better grade of product.

It is also often argued that the worker would have more with which to purchase these article of higher grade and cost. But if prices increase with wages it is evident that the worker is no better off. Indeed, statistics seem to indicate, to the extent which they actually do indicate, the trend of economic movements, that prices increase at a greater rate than wages, i. e., that wages do not increase proportionally with prices, but lag behind rather persistently.

L. Barnet

This would depend entirely on whether its initial effect would be to increase the wage of the inefficient or incompetent, or to eliminate them from the particular industries in question and merely pay the higher wage to the worker worthy of it. In the first case it would naturally increase the price of merchandise; in the second, it would not.

Another danger of the minimum wage by law would be that it would tend to be a maximum.

We do not see that it would have any effect on the liberty of action of the workers.

Its effect on the regularity of employment would be hard to define in advance.

Gertrude Barnum

a. Better management.
Better service.
b. Conditions and character improved.
c. Give non-liberty.
d. As good or better.
e. Kept in training longer.
f. No special effect.
g. Very little if any effect.

George Gordon Battle

a. It would not seriously affect any properly-administered industry. If the conditions in any industry are so unfavorable, or if it is so badly managed that it cannot afford to pay a reasonable wage, then it should go out of existence.
b. The effect on the workers would be, in my opinion, beneficial; it would give them self-respect and would enable them to live decently.
c. As to the particular classes of employers or workers, I have nothing to add to what I have said.
d. I do not see that minimum wages would affect the liberty of action of the workers. A man would not be required to work for the minimum wage; he could take it or leave it.
e. As to the opportunity of obtaining a higher wage than the minimum, I believe the tendency would be (and particularly at first) to diminish that opportunity. It would not, of course, destroy it. A man will always, by efficiency and zeal, secure more than the average wage, if he has the ability and the desire. I do not think that the establishment of a minimum wage would greatly or permanently affect the opportunity for obtaining higher wages.
f. The effect of a minimum wage on workers who are inefficient or incompetent might be at first to protect them, but inefficiency and incompetency would be a cause for discharge. I believe it is better to discharge a man outright than to starve him by insufficient wages.
g. As to the regularity of employment I believe the effect would be to make employment more regular in many industries. At the present time very high wages are paid in busy industries, and very low wages in periods of dullness. A reasonable minimum wage would have a tendency to make employment more regular; but I realize that we are here touching on the great question as to seasonal employment, which is too vast to attempt to discuss in this paper.

h. As to the prices of the product of the industry affected, I do not believe it would make much difference. In some instances there might be an increase in prices and in others a diminution, but, in general, I do not think there would be any marked change.

Emma B. Beard

Minimum wage legislation in this country is too recent to furnish replies to these questions. England and Australia alone have had sufficient experience. Appendix 3 of your third report gives the latest word from these countries, and seems to satisfactorily answer these questions in favor of a minimum wage.

Holmes Beckwith

The effect of a minimum wage on:

a. Employer. It would weed out the inefficient, and force the employment of only good grades of workers. In some cases, where ignorance of employees or other cause had permitted the payment of less than the value of services, and such value equalled the minimum established, the same workers might be retained at a higher wage. This would be, I believe, exceptional.

b. Workers. Those who were worth the minimum would continue as before; those not worth it would be unemployed, and probably suffer until society in some way (see answer to 5) helped them. Decreasing the force of workers available would probably raise wages somewhat, by raising value of service. This rise would probably be slight, but could not be prophesied.

c. See 5, above.

d. Liberty of action of workers. For those able to earn the minimum, I do not see that this would be affected. For those unable, their immediate freedom would be curtailed, and suffering result, till society aided them. If society did aid them, as by training them in state vocational schools till they could earn the minimum, they would gain in earning and producing power and in freedom of action, in the long run.

e. If competition were perfect, I do not see how the opportunity to secure more than the minimum wage, for those whose services were worth more, would be affected. As it is,

though, the roughness with which the value of services is measured often by employers would probably prevent those worth but little more than the minimum from securing any more.

g. I do not see how regularity of employment would be affected greatly. In some cases the laws might increase irregularity, by limiting to rush seasons the times when many workers could earn the minimum.

h. So far as the minimum wage decreased the number of workers available for any industry, the tendency would be both to raise the wage for that industry, even permitting some who were not worth quite the minimum before the change, to later be worth it, and also to increase the price of the product. This, I believe, would not probably be of great importance, especially as the supply of workers available would be as great as ever and the efficiency of some greater, in case the public educated the unfit to efficiency. I do not believe, with many critics, that the added costs of a higher wage would be readily and directly shifted to the consumer, practically in toto.

Harry Best

a. In some cases the employer might have to close the business, or leave the state. In most cases, however, by a rearrangement of his business he would not be injured. Better work would most probably result, to compensate in greater or lesser degree for the increased wage. Parasitic industries might well drop out. In certain cases the increased expenses could be passed on to the public in higher charges.

b. Generally beneficial.

c. Certain employees would be injured, no doubt, as we have noticed; but they constitute a minority. Certain workers might be thrown out of employment, but not necessarily a great number. A minimum wage law should only go hand in hand with better trade training.

d. Of no great consequence.

e. Experience elsewhere, I think, has shown that the minimum wage need not become the maximum.

f. See "c" above.

g. Only in some lines.

h. See "a" above.

E. W. Bloomingdale

a. It would require a readjustment of all wages, and hence of gross profits.
b. Starting at a fictitious wage, advancement would be more slow, with the consequent discouragement to the worker.
c. I assume the worker out of a job would not be permitted to offer to take a lower wage for fear of displacing one already employed.
e. Only those who had demonstrated a special capability could expect to receive higher than a minimum wage.
f. The inefficient and incompetent, and many on the border line, would fall by the wayside. No one would willingly employ the incapable at the same wage of those more useful.
g. Employment in business would become as it is in the trades. Those who could be replaced would be laid off in the dull season, or between seasons.
h. Whatever is added to the expense of conducting a business is very naturally added to the price of the commodity sold. This advance in price, if general, would create a vicious circle — the price of commodities going up would again raise the cost of living, so that to reach the desired standard the minimum wage would have to be increased.

J. L. Burritt

So far as it pertains to our own industry we cannot see that it would make any difference. It would, however, result in a dismissal of a number of the less efficient employees who are now receiving somewhat more than they actually earn, but to whom we could not possibly afford to pay larger wages. So far as it pertains to industries in general we believe that a minimum wage would be injurious to the workers by throwing out of employment cripples, aged persons and a large number of able bodied persons who for inherent reasons cannot reach an average efficiency and it is, no doubt, true that with many employers it would tend to keep wages down to the minimum or near the minimum. In the case of employers who take an active interest in the welfare of their employees under the present conditions the establishment of a minimum rate of wage would, no doubt, reduce their interest in the welfare of their employees. Some of them would feel that they were doing their full duty when they complied with

all the requirements of a law which had intervened between them and their employees. We are inclined to think that it would, to some extent, have this effect on ourselves.

As regards prices of the product we doubt its having any effect.

Charles L. Chute

Upon the employer: It would encourage the efficient employer and drive the inefficient out of business. Upon the worker: It will raise the standard of living and increase the self-respect. It should not be too rigid. I see no reason why it should tend to become a maximum wage. Special exceptions, as in England, must be made for some who are handicapped, so that they should be able to find work and should be paid only what they are worth.

Victor S. Clark

a. If properly enforced, negative.
b. Valuable in preventing sweating, oppression of individual workers, competition of pin money workers, and wages below the subsistence level.
c. No particular answer.
d. Negative.
e. In practice, I have observed no tendency to prevent the payment of higher wages than the minimum to specially competent employees.
f. These workers are a problem regardless of Governmental regulation. The minimum wage does not solve that problem. Probably it must be met by industrial training, apprenticeship, and possibly in a degree by pensions in old age. Where minimum wage regulations also insure proper apprenticeship, the number of these workers is reduced.
g. Negative.
h. The tendency is to increase prices.

Miles M. Dawson

I do not believe that in most cases the establishment of a minimum wage would have any serious effect upon the employers or industries affected, but this might, perhaps, not be the case in a few instances where pretty much the entire range of wages paid has been below the living point. I am of the opinion that

as regards the workers, it would affect them only favorably, and that there is nothing in the statement that it would result in any large number of them being discharged entirely and left without work. I think that the fixing of a minimum wage would, by rendering the workmen less helpless, greatly encourage their organization and thus help to sustain what they had gained by legislation and to cause the law to be enforced; and that through such organization they would have a superior chance of obtaining higher wages than the minimum, and indeed adequate wages for the work done. I do not think that the fixing of a minimum wage will have any effect whatever upon the employment of workmen who are inefficient or incompetent. Such are employed when, at all, merely because better workmen cannot be had at the time. The minimum wage would also not affect regularity of employment. The same amount of work would still need to be done and there would not be any material change in that regard. In the cases of many employers of workmen at wages under the living point, the fixing of a minimum wage would not affect the price of the product to the consumer at all. This would be true, for instance, as regards the department stores where the margins are large and competition would prevent any increase in prices. In the cases of some classes of manufacture where women and children are employed and practically all the wages paid are below the living point, it might be that the prices of the products would be somewhat increased, but in such cases they should be increased, if necessary, because we, who compose the great consuming public, ought not to be willing to obtain products or services at a cost which leaves the workmen without compensation sufficient for bare maintenance.

Elizabeth Dutcher

a. Would force him to train his employees, both in the use of their brains and hands.
b. Would be an unmixed good for everyone (see 6).
d. Cannot see how it would in any way infringe liberty of action.
e. See answer to Question 6.
f. See answer to Question 6.

g. R. H. Tawney, "Minimum Wage in the Chainmaking Industry" (London, G. Bell & Son, 1914, p. 65), shows that it standardizes the trade, and makes employment more regular.
h. Might possibly raise price of product, though not necessarily, for cheap labor is dear labor. If it raised prices, the body of consumers would merely be paying a fair price for that which they had been paying too little for for a long while.

George Eastman

a. The effect of the establishment of a minimum wage on the employer or industry would not be detrimental unless there was some discrimination which put one employer or industry at a disadvantage with another.
b. As to the workers, the immediate effect would only be upon those who would obtain increased wages.
c. Answer included in "f."
d. I cannot see that it would affect the liberty of action of the workers.
e. There might be some effect on the average worker caused by employers using the argument that the minimum was enough. This I consider remote.
f. Workers who proved unable to really earn the wage would be discriminated against by employers.
g. The regularity of employment of inefficient workers would be lessened.
h. Any increase in cost must eventually finds its way into the price of the product.

I am unreservedly of the opinion that the only way to increase wages, or the purchasing power of wages which is practically the same thing, is to increase the efficiency of the worker. This can be done through education, the better organization of industries, a better distribution of labor, and the further introduction of machinery. This latter has been carried so far, however, in many industries that little further advance can be expected. What little advance is made in the future in this direction is likely to be largely offset by the present tendency to inefficiency in the individual unless it can be checked by education.

The establishment of a minimum wage would not affect the industry with which I am connected because we have few, if any, employees to whom it would apply.

Sarah Elkus

a. The result would be dissatisfaction on the part of the employer.
b. Laziness and indifference on the part of the worker.
e. The lack of ambition.
f. Inefficiency would lose positions at once.
h. The price of the product would be increased.

Eliza P. Evans

No effect in most instances.

Where an industry depends for any profits upon its ability to hire cheap labor the industry might be forced out of business, but not necessarily.

It may tend to a loss of effort on the part of the individual but this has not proved to be the effect in some of our industries where the employer has voluntarily adopted a minimum wage. Women are not organized to any extent in this state (Minnesota).

It will force them out of employment in many instances temporarily, but on the other hand will force these same persons to better their own condition, will force the issue of vocational and industrial and vacation schools and acquaint the public with the great need for such education.

Will tend to force employers to try and make their work less seasonal for they will want to retain good help.

The employers will shift the increase in wages onto the public as far as possible and it remains for some one to find a way to keep the employer from doing this where his profits are such as to enable him to stand the increase. More attention to details and efficiency would pay for the increase in wages in most industries. Business efficiency is an unexplored field in most industries in this State, that is the problem of one well-paid worker doing the work of two poorly paid workers.

C. E. Gardiner

It is only where existing conditions are very bad that advantage might be secured. It is only to lift an employment out of such conditions that the proposal would be advisable. Where conditions are passable, and capable of improvement by free

action of combination and competition, the answer to all the above questions would be adverse.

F. H. Gilson

e. f. If the minimum wage is a minimum piece work price or equivalent, I can see no detriment.

g. I do not see how employment can be guaranteed to any person. Being out of employment is a matter which is not necessarily connected with the minimum wage; it is a different subject.

h. Better wages for employees cannot help but increase the price of the product, and when the product is consumed by the working people, it goes far toward offsetting any advantage which they may get in increased wages. The minimum wage alone will not accomplish what its advocates are seeking. Nothing but the desire of all persons to give a square deal to all those with whom they deal will get the more equal distribution of the products of labor which are now sought.

William P. Gone

a. The employer or business would not be affected materially until the minimum was raised so high as to affect the great bulk of his employees — those he could not discharge and still continue in business. In that case his costs would be increased and the value of business reduced, especially, of course, when it was a business in which there was competition with places not subject to the law.

b. The workers affected would suffer the most, as in the case of the less efficient ones, they would lose their right or privilege to support themselves, and in the case of the better workmen, they would be likely to suffer somewhat, if the occupation in which they were proficient was crippled.

d. I cannot see that there would be any effect on the liberty of action of those who continued to work.

e. I do not believe that the law would tend to reduce the wages of efficient workers to the minimum prescribed by law.

g. Workmen would tend to have more regular employment in so far as the necessity of getting more efficient workers would be increased. Of course there might be some difficulty about employing people in slack season at reduced rates, which would have a contrary tendency.

h. If the law could be made drastic enough to accomplish a general increase in wages in any industry, it would, of course, increase the price of the article produced.

On the particular business in which I am now engaged, the wages paid directly by us form such a small proportion to the business conducted that we are able without serious loss to pay somewhat over the prevailing rates, and in the case of the few very inefficient people employed, we would perhaps hesitate to discharge them, even if the law required us to pay them somewhat more than they are at present receiving.

Bolton Hall

a. A minimum wage would have little effect, if any, upon the employer or industry *if it be universal.* It would be a means of operation to the extent that it is local or discriminatory.

b. The same thing is true about the workers. I am a considerable land owner and if you will establish a minimum wage in Plainfield, N. J., or in Berkeley Heights, where I own a good deal of property, and it does the workers any good, I shall certainly raise their rents. If it does them good and makes it a more desirable place to live in, why of course it is worth more to live in, and I being the owner of it will get the main benefit.

c. Of course if we have to pay women more than we think they are worth and can get men for that same price, other things being equal, we will prefer men, because a man ordinarily expects to make his job his life work, and women ordinarily expect to work until they get married; and further, there are certain physical traits in the woman that make her somewhat less dependable as a steady and vigorous worker. In addition, it may be said that the fact that women have had less liberty and more codling than men has made them, as a rule, somewhat less dependable.

d–e. I think the effect on the liberty of the action of the workers and the opportunity of obtaining a higher wage is insignificant.

f. It seems to me clear that a minimum wage will throw out all who are inefficient or incompetent. Why should I give two dollars a day to a laborer who has only one leg when I can get a laborer with two legs for the same price?

g. Naturally if I have to pay more than the employee is worth, I would try to speed him up and get six days work done in five and lay him off on the sixth.
h. It might add slightly to the price of the products of the industry affected, but that would be of no account were the thing universal, and would in my judgment be insignificant anyhow.

I employ only clerks: I do not see that the minimum wage will have any effect in my business.

W. R. Heath

a. After the industry had adjusted itself to new conditions, it would have no effect at all.
b. In my judgment the ratio of the total amount of wages paid to the total number of workers employed would not be materially changed.
c. Assuming that there were no more workers, efficient and otherwise, than was necessary to suit the demands of industry, all would be employed, but the tendency would be to compel the efficient to contribute to the loss suffered by the industry on account of the inefficient.
d. Every worker has a commodity for sale to the industry. If he must find a market and deliver specific goods he will be alert and active. If his goods are already sold for him at a specified price, he will tend to be inactive and less careful of the quality of goods delivered.
e. If an employer was obliged to pay $9 for what was really worth only $8, the inevitable tendency will be when he is left to his own resources to continue to pay $9 for what has become worth $10 until he has recouped his loss. On the other hand, there are a very large number of people who are content to live without great exertion if possible, and if the minimum wage is easy to secure and an advance on the minimum wage is comparatively hard, many will be content with the minimum wage.
f. Under a minimum wage it is my judgment that there will be more inefficient and incompetent seeking employment than there would be without a minimum wage. The tendency will be to spur the industry to adopt efficiency methods to secure a larger output, thereby requiring less employees. Of course the inefficient and incompetent under such circumstances will be the first to suffer.

g. Employment will be less regular and the irregularities will effect the workers in the order of their inefficiency and incompetency.

h. It is my judgment that the cost of production will not be materially increased, in which case the price of the product will not be increased. Of course if the cost of production is increased the price will increase. There would, of course, be a tendency toward stiffening prices by reason of the opportunity offered even though cost of production were not increased, although this is perhaps not important.

This company employs inexperienced girls and boys of lawful age, apprentices, at $6 per week. (The young employees sometimes at $5 per week for the first month. If they are retained they are advanced to $6 per week.) They are thereafter advanced as they become proficient in their work and can readily with reasonable application and industry secure $8 and $9 per week. This is in the office. In the factory the basic salary is $6 per week with bonuses for efficiency. Common labor is paid $12 a week.

The office works 47½ hours per week 39 weeks of the year and 44 hours per week 13 weeks of the year. The factory works 50½ hours. Both factory and office are closed Saturday afternoon the year round. In my judgment a minimum wage law would not affect this company.

E. D. Howard

Any discussion of the social effect of a minimum wage can only be considered in connection with the responsibility of the State for a disposition of the weaker or relatively incompetent worker. Any minimum wage should apply over the whole competitive territory in order not to put one particular group of employers at a disadvantage in competition. Whenever competition fails, there is a monopoly, and to that extent does a minimum wage become inadvisable. A rational minimum wage must also be administered by a commission, or somebody having power to adapt it to the conditions as they change. A rigid

minimum wage law is likely to injure the very people whom it is desired to benefit.

In our particular establishment, we should be very glad indeed to have a minimum wage for tailoring which applied to all the principal markets of the country. Almost any employer would be glad to increase wages materially if his competitor were required to do the same thing.

Howard C. Hopson

It is impossible to make a complete answer to No. 8 within the time and space permitted, but in my opinion the establishment of a minimum wage would throw as charges upon the community all the less efficient workers and tend to encourage mediocrity and inefficiency. While every effort should be made to improve inefficient and dependent members of society as much as possible, I do not believe that the benefits of the survival of the fittest should be entirely swept away by making the inefficient a dead burden upon the efficient. The effect of the minimum wage will be to reduce the wages of the more efficient, to raise the wages of the less efficient with an added burden on those who are employed of entirely supporting such as are unable under any condition to secure the minimum wage. In other words, it will result in a leveling process which has already gained a very undesirable foothold in certain highly organized building trades.

Belle Lindner Israels

g. Tends to promote irregularity.
h. Negligible in garment industries if wage is fairly fixed on economically sound basis.

W. T. Jackman

a. It would put on a sound basis those establishments which can pay a living wage, and eliminate those which cannot, those which now are parasitic.
b. It would assure them a living wage with " reasonable " comfort.
d. The right of contract, either as an individual or a group, would usually be curtailed, except in the case of those who were especially skillful, and who would, therefore, have the advantage of making a special contract for their labor.

e. Should experience show that the higher wages brought more efficient labor than before, there would be a good chance of having it raised above the minimum.
f. They would gradually be eliminated.
g. No change, probably.
h. It might, at first, be raised, until there was an adjustment of all the elements in the productive process. But in many cases, the possibility of substituting some other product for this particular one, or of decreasing its use ad libitum, would tend to keep the price down.

N. Johannsen

The regularity of employment has nothing to do with the establishment of minimum wages. That depends upon the state of trade, upon the regularity of demand for such commodities as the wage-earner produces. Why does this demand fluctuate? Why have not we always prosperous business, such as would secure sufficient employment to the working classes? This question ought to be solved before we make plans for the regularity of employment.

R. C. Kemmerer

a. Apt to put some out of business.
b. Keep some out of employment.
e. Decrease the opportunity.
f. No jobs.
g. Decrease it.

Alvin S. Johnson

a. A conservatively administered minimum wage law would have no immediate effect on the industry as a whole. It would weaken the competitive situation of employers hitherto paying less than the minimum and strengthen that of the more liberal employers.
b. It would protect the weaker workers against exploitation. It might tend to exclude some of the least efficient from employment.
d. No perceptible effect on the action of the workers except in so far as raising the minimum excluded some from employment altogether (an improbable result).
e. No effect.

f. No necessary effect. An intelligently administered minimum wage law will have machinery for making due exceptions in case of the superannuated, infirm, etc.
g. No effect.
h. No necessary effect. Gradually to force wages up does not necessarily imply increasing the cost of labor.

Wilford I. King

The minimum wage would benefit some individual workers and injure others. It is a quack remedy for low-priced labor. The arguments advanced in its favor are superficial and unsound. It is an attempt "to lift one's self by one's boot straps." Suppose in a given industry, at present, the wage is $1.50 and the law fixes it at a $2 minimum. The poorest laborers employed are only worth $1.50 to their employer. They will be discharged. No one will hire them. Pauperism will result. Products will be lessened. Everyone will be worse off. The employer cannot shift the burden to the consumer by charging higher prices without lessening the consumer's demand for other commodities, and hence causing a fall in demand for labor in other lines. If the burden could be shifted to the consumer (the largest class of consumers is the laboring class itself) working people would pay the increase.

If wages could really be materially raised to unskilled labor, we would only attract a more rapid rush of the low paid labor of Europe. We would convert the United States into the world's great almshouse. The experiment would work like the English poor laws of a century ago. It would result in a carnival of pauperism. With unrestricted immigration, a really enforced minimum wage law with employment guaranteed at remunerative wages would be a national calamity and a crime against American labor.

James C. Kuhn

From my experience I judge that a minimum wage would work a great hardship to the inefficient, as a great many of them would be thrown out of work. Factories cannot run as benevolent institutions, and they cannot pay people more than they earn. You cannot legislate against nature, supply and demand.

The moral standard of the employer and faithfulness of the

employees is all that is necessary under our present government to ensure harmony and prosperity. Those who advocate the minimum wage should have a little practical experience in factories in regard to this measure.

D. D. Lescohier

A minimum wage which applied to all employers who are in competition with each other would simply raise the general level of costs and would leave them in the same relative competitive position that they were in before. Of course, when I say that it would raise the level of costs I am overlooking the fact that a higher wage will perhaps result in a higher degree of efficiency, and perhaps not increase the employer's costs at all.

A man of considerable experience as a manufacturer said to me the other day in discussing this wage problem that the time has come when no progressive employer would advocate an unsanitary or unsafe workshop because employers have found that the money expended in keeping shops clean and safe increases the efficiency of the labor force more than it increases production costs. Employers have likewise found that reasonable hours of labor give them a working force that is so much more efficient that they can often afford to pay higher wages for shorter hours than they could formerly afford to pay for longer hours of labor. He said further: "I believe the time is near at hand when employers will realize that higher wages will more than repay them in the higher efficiency that will result from better fed and better clothed and more contented employes."

(d) I would suggest that there is in existence almost as real a minimum wage at the present time as if it was established by legal action. In any given locality there is a minimum wage rate for the average worker which is established by custom and the relative power in bargaining of the employees and employers. In this part of the country this minimum is very close to $12. The employers use their power and influence to keep the wages as close to that standard as possible, while the workers bitterly resent any attempt on the part of the employer to get below that standard, while tacitly admitting that the employer is justified in holding them to that standard. A great many laborers earn be-

tween $12 and $15 a week. If a given wage were established as a minimum by law I cannot see how the situation would be changed except to prevent employers from succeeding as they now do in overstepping the minimum. Workers who are more efficient than the average would earn more than the minimum as they do now.

(f) If a legal minimum wage is established specific provision must be made for administrative supervision of the conditions under which the inefficient and incompetent shall be employed. In other words, there will have to be provision for employment of certain groups at less than the legal minimum wage. I believe that this will constitute one of the most difficult administrative problems that will be made in connection with the legal minimum wage. I do not believe that the legal minimum wage will have any effect on the regularity of employment, and I do not believe that it will have any marked effect on prices.

Benjamin C. Marsh

a. The employer or industry which is affected by the minimum wage would have to reduce profits, establish more effective methods of management, raise wages or go out of business in this state. Probably there would be cases of each result.

b. The first effect on workers affected would be that their rents would be increased, so that they would lose a large share of the advantages thereof. It would also result in their having a greater sense of security, for the time being, and should to some extent increase their efficiency, since it would remove continual anxiety as to their living. There would be no guarantee, however, to the workers that the minimum wage would be maintained for any length of time, and there would be the same anxiety about losing their employment.

d. The workers would constantly be in fear of losing their jobs on the ground of incompetency, and this would tend to restrain their liberty of action.

e. The tendency, though not the inevitable tendency, would be to prevent the workers obtaining higher than the minimum wage.

f. Inefficient and incompetent workers would be apt to be dropped, since neither morals nor, probably, the law would compel a manager to employ incompetents.

g. The tendency would be to make employment less regular and

to discourage manufacturers from preparing goods in advance for anticipated demands.

h. As noted in (a) the tendency would be to increase the price of the product of the industry, which would necessarily be the case if the industry continued in its locality if the profits are only reasonable at present under our profit system and the industry is conducted as efficiently as possible.

David A. McCabe

The results would depend so much on the conditions prevailing in the industry that this question, or list of questions, would require a very lengthy answer.

My feeling is that a wise commission could so adjust its determinations as to avoid crippling the industry or driving workers who are fit to be employed at all from the industry. Moreover, a good subordinate body could study its industry and ascertain the forces at work keeping wages low in that industry; it could then set about removing those causes to a considerable extent, with the cooperation of the employers and workers. We need disinterested, or rather non-partisan, bodies in certain industries to bring the employer and workers together for betterment of conditions, bodies which will have the power to force recalcitrant employers to conform to the higher standards the majority would be glad to see enforced. We need in those industries somebody with power to set a lower limit and to enforce "uniform rules." In many trades the labor organizations and employers' associations do that jointly. In the low-paid industries government commissions could doubtless greatly improve conditions and raise wages by the enforcement of similar uniform minimum standards. Such commissions could at least let us know what the matter is in those industries. When we know what forces, and in what strength, we must counteract in order to raise wages, we shall be in a far better position to adopt intelligent policies than at present. If the commission give us no other result than that in its first few years it would be worth while.

Geo. A. McKinlock

I do not feel that I can answer question 8, as to what the effect of the minimum wage would be, as we have no experience on

which to base an opinion. I have an idea that the employer, the industry, as well as the workers would be affected favorably; that the liberty of the action of the worker would not in any way be restricted and that they would have the same opportunity of obtaining a higher wage comparatively with what they have to do, and that the inefficient or incompetent worker would be stimulated to be efficient and competent; that the regularity of the employment would be established and that the stability of the price of the product of the industry would be assured.

Henry T. Noyes

This question is so involved that we are not prepared to give any answer of value to it at present. We believe that the effect would be contingent upon whether the wage was universal or not and if not, what particular industries were operating under the wage plan; also whether it was universal throughout the particular industry. We are now operating under a minimum wage plan, and we believe that for us the plan is desirable, that it has tended to increase wages, to raise our standard of quality and efficiency of labor, and to reduce unit costs.

Almus Olver

a. The minimum wage would have the effect of reducing to some extent the profits of the employer, but would, I believe, bring about the establishing of industries upon a firmer basis and preventing over-capitalization of companies and the undertaking of rash business ventures where the prospect of success is so slight as not to justify their formation.
b. The immediate improvement of living conditions with an increase of independence, efficiency and health.
c. Problematical.
d. None whatever.
e. As good as at present.
f. The inefficient and incompetent could probably not be profitably employed in some industries under this plan, but ample opportunity would still be offered them in the line of agricultural and similar occupations and further increase independence of other members of the family, and so make it possible for their relatives to provide for them more fully than under the present system.
g. No appreciable effect.

h. Probably an increase in the price of most products, as the employer would not fail to take advantage of this admirable excuse for increasing his profits. I may state as an example the recent decision of the laundries in the city of Syracuse. As announced by them in each package of laundry returned to their customers, one cent will be added to the cost of each parcel of laundry for the purpose of paying the increased cost to them of the Workmen's Compensation Act.

Alfred E. Ommen

a. It would create an additional burden which must react on the customer and eventually must be paid by the worker, who is the producer.
b. It would tend to increase the cost of living by raising prices in all industries and would necessarily cheapen the value to be obtained from the dollar.
c. All classes.
d. It would add greatly to the powers of the workers and tend to restrict output.
e. The efficient worker will always be able to earn a higher rate of wage.
f. It would force their employment at a rate that would not be commensurate with their producing capacity.
g. In the printing industry, it would have no special effect whatever, except that the employment of persons at a minimum wage would be unprofitable by reason of their inexperience, inefficiency and incompetency.
h. The result would be a final selling price from five to twenty-five per cent higher than at present, and if it were only done in the city and State of New York, would cause the removal of manufactories that could afford to move.

Edward D. Page

The effect of a minimum wage is largely a matter of speculation. Its effect on any of the classes designated as a, b, c, d, e, would depend entirely upon the scope and permanency of the minimum wage established.

(f) It takes little imagination to see that inefficient or incompetent workers would only be able to obtain employment spasmodically. It might result, of course, in putting every man in his place; but it would probably tend to an increase in the number of the wards of the State, either as inmates of almshouses or institutions for mentally deficient. Many people who are, in

some degree, mentally deficient now able to support themselves on a plane perhaps lower than the average standard of living of their group by working for less than the minimum wage would be entirely thrown out of the possibility of self-support if it were made illegal for them to do so.

(g) Persons incapable of fairly earning the minimum wage would, of course, be employed as little as possible; and instead of having the discipline of steady and regular employment would probably be thrown into the class of those partly supported by the State.

(h) If the result of the minimum wage enactment should be to raise the standard of efficiency amongst the workers who remained in the industry it would not materially affect the price of the product; it might even lower it.

A minimum wage might seriously interfere with obtaining the part time workers — children and women — who make a little extra money for their families by such light employment as picking berries, peas, beans, etc. If these had to be picked at the full price of heavy labor the cost to the consumer would, of course, be raised. This would hurt the part time workers and the public more than it would hurt the farmer; for all farmers would be affected alike by the process.

Raymond V. Phelan

a. In some cases minimum wage laws may reduce profits either temporarily or permanently. The time will come when the question of profits will be less important in calculating fair wages. We shall progress toward a general acceptance of the dictum that the labor in a business must have reasonable dividends (wages) even if the capital cannot have such dividends.

b. A minimum wage should gradually increase efficiency. It probably will tend to hold some wages down.

c. No effect on liberty of action except where sufficient efficiency is lacking and in the cases of speeders and petty bosses paid for their driving powers. No wholesale displacement need be apprehended.* Children in industry may, however, tend to decrease in number.

d. See b above.

* Still, the relative amount of apprentice labor should be regulated and an excess forbidden.

e. Some of the inefficient will probably be displaced, but it must be remembered that inefficiency is a matter of:
   1. Wages paid (at least in some cases).
   2. Profits necessary.
   3. Prices charged.
   4. Organization of the business.

f. Might tend to increase regularity through better business organization.

g. Some prices may be increased.

Hugo Seaberg

The establishment of minimum rates of wages or reducing the hours of the working day has, I think most people will agree, a tendency to raise our standard of living; therefore, of most important consideration is whether a higher standard can be maintained eventually, aside from the merit and efficiency of the individual worker, without readjusting our avenues of competition. Increasing our standard of living will, of course, increase in the same proportion the cost of all things produced by the laborer, and as all labor and result of labor is so intermingled and entered, directly and indirectly, into all things produced, it might be safely said that the cost for everything will be to some degree advanced.

Can such an advancing cost be maintained if the very labor in question comes into competition with foreign labor of a lower standard? Therefore, if freedom of choice still exists, as it necessarily must, will the result not be a suspension of employment, affecting some laborers in whole and others in part, in proportion that the local cost exceeds foreign cost plus expense of transportation. This seems to me would be the inevitable result unless a protective system was added to and irrevocably maintained; you cannot have idealism in one place and the opposite in another, relating to commerce, without doing injury to the former, with free and unlimited intercourse. Therefore, the putting of the theory in effect as a local or State movement will eventually work harm instead of good, whereas in our case the nation can, and sometimes will, put counter influences into effect which make the State legislation a weapon of harm to the very laborer which the State intends to benefit.

E. M. Sergeant

The establishment of such a wage law would tend to throw out of employment the less competent workers, and would tend to remove one incentive to good work. This has undoubtedly been the case where a minimum wage has been fixed by unions for their members.

The question as to the effect of such legislation on the liberty of action of the workers seems to me unimportant, and its effect on the prices of products would doubtless vary very greatly in different industries, and could hardly be predicted in advance.

The opinions stated above are of course based only on my observation of such branches of industry as I am familiar with.

With reference to your question as to the effect of minimum wage on the particular business with which I am connected, I would say that I doubt if there would be any effect, unless the minimum wage was made exceedingly high, as I believe we are now paying higher wages than would be set in any reasonable minimum legislation.

Florence Simms

d. Knowing that they have the protection of the State, it should make employees less afraid in reporting any injustice or violation.
e. More hope of obtaining increases than if a minimum were not established.
f. Means would be employed to make the less efficient more capable. The "unemployable" would require other provisions to be made for them.
h. It would have no special effect on the price of the product. Increased efficiency would obviate that difficulty.

H. K. Thomas

a. The employer would immediately endeavor to reduce the number of men employed, by increasing the efficiency of machine tools and the like.
b. The workers, following the last mentioned, would be reduced in numbers.
d. Provided minimum wages fixed by law were paid, the tendency would be to adhere to this and to give no opportunity of raising wages to the individual.
e. Answered under d.
f. Such workers could find no employment whatever.

g. In certain industries, such as the trades of bricklayers and stone masons, the regularity of employment is impossible because weather conditions to a great extent diminish the amount of work in hand during winter months.
h. The probable effect on the price of the product is problematical. It entirely depends upon the ratio of an established minimum wage with the present rates.
The effect on the business carried on by this company is also dependent on the ratio of a fixed minimum wage to present rates, and cannot, therefore, be predicted.

The writer's experience both in this country and in Europe in factory management over a period of seventeen years, inclines him to the opinion that wherever anything in the nature of a general minimum wage is fixed, the tendency is to level wages downwards rather than upwards, because it discourages employers from specially favoring highly efficient men who may, therefore, not be paid so much as they are really worth.

W. H. Thompson

a. Reduced profit.
b. A larger opportunity of life to which they are entitled.
c. A closer attention to business on the part of both.
d. It would naturally develop a higher standard of efficiency from the fact of affording them better advantages in the way of education and training.
e. A better opportunity for the enlightened of any class of workers to enjoy greater chance of improvement in every respect.
f. Inefficiency and incompetency are largely, according to our viewpoint, but a larger opportunity to develop the best there is in one. Besides becoming better educated on account of better opportunities, these classes could be better classified and the weakest be aided by the State whenever conditions warranted such action.
g. But little if any.
h. But slightly higher, if any, if industry were compelled to give up a portion of its unearned increment.

A. C. Vandiver

a. None.
b. Ameliorate their condition.
c. It would probably diminish the profits of employers who inadequately pay their wage earners.

d. None.
e. None.
f. It would probably serve to eliminate inefficient and incompetent workers.
g. None, except in so far as the regularity of employment would be affected by the elimination of incompetent and inefficient workers.
h. It would probably increase slightly the price of the products of the industries affected.

Ansley Wilcox.

As to effects, I am sure that a minimum wage law would have a bad effect in connection with each of your subdivisions of this question.

3. SYMPOSIUM ON THE MINIMUM WAGE PROBLEM

On September 29, 1914, the Commission issued a letter asking for a statement of views on the subject of Minimum Wage Legislation, to what extent it should be enacted, and the difficulties of administration and how they might be overcome. It further sought suggestions regarding the wage problem particularly in its relation to women and children. This letter was sent to small groups of men and women representing various interests and different points of view, viz.: economists, social workers, lawyers, representatives of labor and employers and their representatives. The memoranda submitted by the following are of great value because all are in a position to make authoritative statements, whether it be from actual practical experience or through study and observation:

I. Economists

Thomas S. Adams, *Member, Wisconsin Tax Commission; Professor of Economics, University of Wisconsin.*

Eugene E. Agger, *Professor of Political Science, Columbia University.*

William B. Bailey, *Professor of Economics, Yale University.*

Roy G. Blakey, *Department of Economics, Cornell University.*

Thomas N. Carver, *Professor of Political Economy, Harvard University.*

Sidney J. Chapman, *Professor of Political Economy, University of Manchester, England.*

John Bates Clark, *Head of the Division of Economics and History, Carnegie Endowment for International Peace; Professor of Political Economy, Columbia University.*

John R. Commons, *Professor of Political Economy, University of Wisconsin; Member, United States Commission on Industrial Relations.*

Davis R. Dewey, *Professor of Political Economy, Massachusetts Institute of Technology; Editor, Economic Review.*

FRANK A. FETTER, *Head of Department of Economics and Social Institutions, Princeton University.*

GEORGE G. GROAT, *Professor of Economics, University of Vermont.*

JOHN H. GRAY, *Professor of Economics, University of Minnesota.*

M. B. HAMMOND, *Professor of Economics, Ohio University; Vice Chairman, Industrial Commission of Ohio.*

EDWIN W. KEMMERER, *Professor of Economics and Finance, Princeton University.*

SCOTT NEARING, *Professor of Economics, University of Pennsylvania.*

EDWARD ALSWORTH ROSS, *Professor of Sociology, University of Wisconsin.*

JOHN A. RYAN, *Professor of Economics, St. Paul Seminary; Author of "The Living Wage."*

HENRY R. SEAGER, *Professor of Political Economy, Columbia University.*

N. I. STONE, *formerly Chief Statistician, U. S. Tariff Board.*

FRANK H. STREIGHTOFF, *Professor of Economics, DePauw University, Indiana.*

F. W. TAUSSIG, *Professor of Political Economy, Harvard University.*

FRANK D. WATSON, *Professor of Economics, Haverford College.*

ADNA F. WEBER, *Chief Statistician, N. Y. State Public Service Commission.*

II. SOCIAL WORKERS

FELIX ADLER, *Leader, N. Y. Society for Ethical Culture.*

FREDERIC ALMY, *General Secretary, Charity Organization Society, Buffalo, N. Y.*

INEZ MILHOLLAND BOISSEVAIN, *Lawyer; Student of Working Conditions of Women.*

BAILEY B. BURRITT, *General Director, N. Y. Association for Improving the Condition of the Poor.*

FREDERICK COURTNEY, *Bishop, St. James Church, New York City.*

HERBERT CROLY, *Editor, "The New Republic;" Author, "The Promise of American Life."*

EDWARD T. DEVINE, *Director of the N. Y. School of Philanthropy; Professor of Social Economy, Columbia University.*

SEBA ELDRIDGE, *Secretary, Department of Social Betterment, Brooklyn Bureau of Charities.*

JOHN A. FITCH, *Industrial Investigator; Member of the staff of "The Survey."*

HOMER FOLKS, *General Director, N. Y. State Charities Aid Association.*

MARY E. GARDNER, *President, Consumers' League of Buffalo.*

JOSEPHINE GOLDMARK, *Publication Secretary, National Consumers' League.*

NORMAN HAPGOOD, *Editor, "Harper's Weekly."*

CHARLES R. HENDERSON, *Professor of Sociology, University of Chicago.*

FREDERIC C. HOWE, *Commissioner of Immigration, New York City.*

FLORENCE KELLEY, *General Secretary, National Consumers' League.*

PAUL U. KELLOGG, *Editor, "The Survey."*

JOHN A. KINGSBURY, *Commissioner of Charities, New York City.*

BRUNO LASKER, *Investigator for the Rowntree Foundation, York, England.*

SAMUEL MCCUNE LINDSAY, *Professor of Social Legislation, Columbia University.*

OWEN R. LOVEJOY, *General Secretary, National Child Labor Committee.*

GEORGE R. LUNN, *Editor, Schenectady "Citizen;" Ex-Mayor of Schenectady.*

CHARLES S. MACFARLAND, *Executive Secretary, Federal Councils of Churches of Christ in America.*

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WILLIAM H. MATTHEWS, *Director, Department of Family Welfare, New York Association for Improving the Condition of the Poor.*

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GAYLORD S. WHITE, *Headworker, Union Settlement, New York City.*

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III. LAWYERS.

HENRY DEFOREST BALDWIN, *Lawyer, New York City.*

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W. BOURKE COCKRAN, *Lawyer, New York City; Former Member of Congress.*

JULIUS HENRY COHEN, *Lawyer, New York City; Attorney for Cloak, Suit and Skirt Manufacturers' Protective Association.*

MANFRED W. EHRICH, *Lawyer, New York City.*

RAYMOND B. FOSDICK, *Lawyer, New York City; formerly Commissioner of Accounts.*

JOHN D. KERNAN, *Lawyer, Utica, N. Y.*

JARVIS W. MASON, *Lawyer and Accountant, New York City.*

CHARLES F. MATHEWSON, *Lawyer, New York City.*

EVERETT P. WHEELER, *Lawyer, New York City.*

VICTOR MORAWETZ, *Lawyer, New York City.*

IV. REPRESENTATIVES OF LABOR

EDWARD A. BATES, *Secretary-Treasurer, N. Y. State Federation of Labor, Utica, N. Y.*

HOMER D. CALL, *Vice President, N. Y. State Federation of Labor, Syracuse, N. Y.*

TIMOTHY HEALY, *President, International Brotherhood of Stationary Firemen, New York City.*

JAMES P. HOLLAND, *Vice President, N. Y. State Federation of Labor, New York City.*

EMANUEL KOVELESKI, *Vice President, N. Y. State Federation of Labor, Rochester, N. Y.*

JAMES M. LYNCH, *N. Y. State Commissioner of Labor; formerly President, International Typographical Union.*

HELEN MAROT, *formerly Secretary, N. Y. Women's Trade Union League.*

JOHN MITCHELL, *Member N. Y. State Workmen's Compensation Commission; formerly President, United Mine Workers.*

ALBURTIS NOONEY, *Secretary, Central Labor Union, Hudson, N. Y.*

JOHN T. O'BRIEN, *Vice President, N. Y. State Council, United Brotherhood of Carpenters and Joiners of America, New York City.*

MARGARET DREIER ROBINS, *President, National Trade Union League of America, Chicago, Ill.*

HENRY STREIFLER, *General Organizer, American Federation of Labor, Buffalo, N. Y.*

V. EMPLOYERS AND THEIR REPRESENTATIVES

JAMES F. ADAMS, *Vice President, The Canister Co., Phillipsburg, N. J.*

L. ADLER BROS. & CO., *Clothing Manufacturers, Rochester, N. Y.*

ROGER W. BABSON, *President, Babson's Statistical Organization, Wellesley Hills, Mass.*

M. M. BRUERE, *National City Bank, New York City.*

FRANK R. CHAMBERS, *Rogers, Peet & Co., New York City.*

RICHARD S. CHILDS, *New York City.*

HENRY CLEWS, *Banker, New York City.*

JAMES G. CUTLER, *Rochester, N. Y.*

FREDERICK L. DEVEREUX, *Auditor, N. Y. Telephone Company.*

HARRY DOWIE, *New York City.*

NATHAN DREW, *Counsel, National Erectors' Association, New York City.*

E. F. DUBRUHL, *Miller, DuBruhl & Peters Manufacturing Company, Cincinnati, Ohio.*

DUNN & MCCARTHY, *Shoe Manufacturers, Auburn, N. Y.*

ALEXANDER EISEMANN, *E. Eisemann & Co., New York City.*

A. LINCOLN FILENE, *General Manager, William Filene's Sons, Company, Boston, Mass.*

D. M. FREDERIKSEN, *President, Scandinavian Canadian Land Co., Minneapolis, Minn.*

F. X. KUCHLER, *F. X. Kuchler & Son, Brooklyn, N. Y.*

ADOLPH LEWISOHN, *Adolph Lewisohn & Son, New York City.*

ROBERT LUCE, *President, Luce Press Clipping Bureau; formerly Lieutenant Governor of Massachusetts.*

K. B. MATHES, *President, K. B. Mathes Company, Batavia, N. Y.*

N. Y. STATE RETAIL DRY GOODS ASSOCIATION, *W. A. Dyer, President, Syracuse, N. Y.*

F. COLBURN PINKAM, *Secretary-Treasurer, National Dry Goods Association, New York City.*

H. F. SEARLES, *Secretary, Cohoes Manufacturers' Association, Cohoes, N. Y.*

PERCY S. STRAUS, *R. H. Macy & Company, New York City.*

HENRY R. TOWNE, *President, Yale & Towne Manufacturing Company, New York City.*

G. VINTSCHGER, SR., *President, Markt & Hammacher Company, New York City.*

F. E. WHEELER, *President, International Heater Company, Utica, N. Y.*

VI. COMMISSIONS

G. S. BARNES, *Board of Trade, London, England.*

C. H. CROWNHART, *Chairman, Wisconsin Industrial Commission.*

KATHERINE PHILIPS EDSON, *Member, California Industrial Welfare Commission.*

WILLIAM F. HOUK, *Chairman, Minnesota Minimum Wage Commission; State Commissioner of Labor and Statistics.*

WALTER G. MATHEWSON, *Member, California Industrial Welfare Commission.*

EDWIN V. O'HARA, *Chairman, Oregon Industrial Welfare Commission.*

EDWARD W. OLSON, *Member, Washington State Industrial Welfare Commission.*

ROBERT G. VALENTINE, *Industrial Counselor; Chairman of the First Massachusetts Minimum Wage Board.*

I. ECONOMISTS

STATEMENT OF THOMAS S. ADAMS

I regret to say that I have not followed the actual administration and practical results of minimum wage law legislation with sufficient care to speak with any certainty or authority on this question. I have, however, been favorable to the intent or doctrine underlying such statutes, believe that it is in thorough accord with sound principles of legislation and that, if cautiously and carefully attempted, cannot fail in the long run to improve conditions in those trades and occupations in which the wages now paid are insufficient to enable workers therein to maintain reasonable and American standards of living.

Such legislation would probably in the long run justify itself by its single effect of stimulating and encouraging organization among the workers concerned. The occupations concerned are those in which it is almost impossible, without outside stimulus, to support and develop organization of the workers. Minimum wage legislation helps to arouse a feeling for the necessity of such organization and to set the machinery in motion by which such organization may be maintained. I regard this as perhaps the most important part of minimum wage legislation, and as alone sufficient to justify the attempt to introduce and maintain it. Moreover, legislation on this subject is the most helpful method of focalizing and fixing a reasonable public opinion on this subject. It is very important, of course, that such legislation should be framed with care and its administration conducted carefully and slowly. It will fail if sufficient time and pains are not taken to adapt it to the complex conditions of the industries affected.

STATEMENT OF EUGENE E. AGGER

In relation to minimum wage legislation I may say that I believe it to be not only a possible but an almost inevitable expedient in lines of occupation where the normal character of competition is such as to make impossible a standard of living demanded in the United States.

The need for such legislation appears to me to arise in the unskilled trades, where the nature of the labor supply is such as to preclude the possibility of collective bargaining.

The isolated laborer whose position is rendered weak by ignorance, relative incapacity or physical disability, is of necessity limited in his bargaining with his employer to what the employer will offer. The laborer's minimum tends to be dictated by his own urgent necessities rather than by any conception of the real value of his services. In his competition with others therefore, fearing the disaster of unemployment, he tends to be pushed lower and lower down in the economic scale. In general this would seem to be true in the case of the labor of men in the so-called sweating trades, of the labor of women in other trades as well as the sweating trades, and in the labor of children in almost all trades. But of course, owing to the great diversity in the capacity of children in industry and to their secondary connection in most trades, it is difficult to see how minimum wage legislation could be applied to them. Raising the standard of education and imposing severe restrictions on the labor of children and young persons would seem to be the only possible solution, as far as they are concerned.

With respect to mature men and women, the problem is simpler. It would seem to be simplest of all in the case of men, but the need is, of course, more urgent in the case of women. In each case it would appear to be necessary to determine the wage adequate for the maintenance of accepted standards of living, including in such a standard the necessary responsibilities that are attached to the several classes of beneficiaries. The man with family responsibilities would obviously require more than a girl looking out for herself alone.

The administrative difficulties of minimum wage legislation are, of course, serious, but they ought not to prove so formidable under our institutions that we should shrink from taking the step. Successful administration for such legislation would, of course, involve a highly efficient and honest service. After all, so does any significant government undertaking.

The main difficulties as I see them would be first of all in determining the fields of labor to which such legislation should apply. Secondly, in arriving at the minimum to be prescribed.

Thirdly, in properly enforcing a minimum wage. In connection with the last, the question is not only one involving the employer, but also the faithfulness of the employee.

My own feeling is that successful administration would require enforced organization of both employer and employee.

The difficulty that some employee whose productive capacity falls below the prescribed minimum wage, would be out of employment and would have to be taken care of by the state, would have to be offset. But removing him from the field of competition would render the position of the other workers so much more secure, that the indirect economic gains resulting through increased efficiency as well as the direct savings which would result from the discontinuance of private and public charity otherwise necessary would more than offset the expenditures necessary for the maintenance of the inefficient.

It is sometimes said that minimum wage legislation would necessarily mean higher prices. The answer to this objection would appear to be that society has no right to prices made low by the drawing of the life blood of some of its constituent members. Legislation of this kind would, from this point of view, simply tend toward the greater equality in incomes in the real economic sense, and is therefore, far from being undesirable.

The evils of our modern industrial society can be eliminated only by careful analysis and courageous positive social action, based on rational principles. Failure to take such action always results in serious unheavals.

Your Commission has been doing some splendid analytical and some effective constructive work, and I trust that it will have the courage to stand resolutely for the reforms that its investigations have proven to be necessary.

STATEMENT OF WILLIAM B. BAILEY

My principal experience within the past two or three years has been as head of the Organized Charities Association of New Haven where of course we come in contact with a good many low paid workers. I hear a good deal said about the low wages being

a cause for a life of vice but must say that I have failed to come upon many cases of this in the considerable number of wayward girls who are brought to my attention. Our association cares for all the girls who are brought before the courts of New Haven County for any offence before the age of sixteen. Many of these cases are for vice, but I do not recall hearing a girl say that the prime motive for this action on her part was insufficient earnings. Many of them, of course, desired luxuries which they could not afford, but I fear minimum wage legislation would not cure this.

My principal objection to such legislation is that it makes a person's needs and not a person's ability a standard for payment. I realize that this is not a maximum but a minimum standard. To raise the rate of wages would increase the cost of production. This would decrease the demand for the article and fewer workers would be required in the industry. The least efficient would be thrown out of employment and be left without any income. This would necessitate either state pensions, a great increase in private charity, or some sort of state industry in which the most inefficient workmen could be employed. I feel that if this same energy were devoted to some kind of trade school or vocational guidance by which the general intelligence and skill of workers could be raised, the improvement to the community would be greater. I suspect that the decrease of immigration due to the European war will ultimately result in a rise in rate of wages in this country.

STATEMENT OF ROY G. BLAKEY

The amount of wages depends fundamentally upon the value of the output of workers. Whatever tends to increase the value of this output enables the employer to pay more — efficiency, use of best machinery, abundant and rich natural resources being of primary importance for high wages. In all industries, perhaps sooner in agriculture than in any other, there is reached what we economists call the point of diminishing returns. After that point is reached, each additional worker added to the plant or firm, adds a smaller output value than previously employed workers and consequently employers can not take on additional employes

except at lower wages, and oftentimes there is a tendency to replace higher paid employes with the later comers, that is, for the wages of all to be reduced unless invention, the opening up of new resources, improvements in organization, or something keeps the value of the output from falling per capita.

Voluntary organizations and governmental action other than fixing wages can do much to improve conditions of wage earners, and most that can be done in this way should be done so as to prevent the necessity of much state wage fixing. But in some cases minimum wages are desirable. People are often short-sighted and harm themselves and society; it is not true that the individual acting as he will unrestrained by law, always promotes the best interest of society; consequently we have found it necessary to pass compulsory education laws, to provide free public schools, to fix hours of labor, and to do a thousand other things. For the same reasons, it may be best in the *long run* to fix minimum wages in some cases.

It seems best to begin with women and children and not with men. The former are subject to peculiar dangers, are less apt to secure adequate wages, and the evil results to future society are fraught with more serious evils than in the case of men. But the logic of the minimum wage applies to men also and later it may be best to apply the law to them also. Experience with its application to women and children will be a valuable guide in such case.

The immediate results of such a law are apt to be harmful, just as with workmen's compensation; ultimate effects of a good law *properly administered* should be beneficial.

STATEMENT OF THOMAS N. CARVER

The very best way of raising the wages of unskilled labor and thereby eliminating unnecessary poverty would be to reduce the supply of unskilled labor. This could be done by a combination of:

First, a better system of vocational education to train men out of the under-paid and into the well-paid occupations and professions.

Second, by restricting immigration in such a way as to eliminate unskilled workers, and

Third, by restricting marriage in such a way as to reduce the number of marriages and the number of births among the least skilled and most poorly paid of our people.

There does not seem to be any sincere desire, either on the part of social reformers, social workers, or philanthropic agencies, to attack the problem in this direct and efficient manner. Our unctious social uplifters are willing to do anything for labor except that which will really do something for labor.

The next best way, possibly the only way that stands a chance of legislative enactment, is a minimum wage law. This will accomplish the same three results in a roundabout way, provided it is honestly applied and not trifled with, as it is in Australia. That is to say, if it is honestly and sincerely applied, it will restrict immigration because only such immigrants can come as can get work at the higher wage level established as the minimum by law. Only the fairly competent or skilled immigrants will be able to find work under these conditions.

Again, the least competent of our native workers will not be able to get jobs at all. A man who cannot get a job on any consideration will hardly be likely to marry and reproduce his kind.

Again, if young men realize that a failure to fit themselves for somewhat skilled work may mean the failure to get a job on any terms, and, therefore, pauperism, they will be spurred on to somewhat better endeavor to train themselves and acquire the necessary skill and capacity.

If, however, the minimum wage law is inefficiently or dishonestly administered — that is, if exceptions are made in favor of any one who cannot get a job at the minimum wage, and instead of sending him to the almshouse he is allowed to work for less than the minimum, no good results will follow. It will only be another addition to the long list of futile and insincere attempts on the part of social uplifters to do something for labor without being able to do that which will really do something for labor.

STATEMENT OF SIDNEY J. CHAPMAN

I think it occasionally happens that wages are materially lower than they need be. The cause may be that the workers are scattered and have no organization, or that for some reason they are weak in bargaining power, or it may be that the employers are not in effective competition. Broadly put, I should say that there are many cases in which social friction works against the wage earner, and of course it seldom happens that theory works out exactly in any case. When wages are very low for the reason given, the State certainly ought to consider whether action on its part might not prove beneficial. In some instances a good deal might be done by voluntary effort to organize the workpeople, but voluntary effort cannot always be relied upon, and what is needed is occasionally beyond its sphere. I think the English Government has certainly done some good by instituting Labor Exchanges with adult and juvenile branches. These have the effect of preventing certain callings into which people are apt to drift from getting an over-supply of labor which of course eventuates in a fall of wages.

Another step taken in England has been the institution of Wage Boards to decree minimum wages. We have had little experience as yet of the effect of Wages Boards, but as far as I can gather they have succeeded in raising wages without causing unemployment or any appreciable degree of unemployment. One desirable consequence of the Wages Board has been to bring employers and employees together to discuss the problems of the trade.

STATEMENT OF JOHN BATES CLARK

In an article in the "Atlantic Monthly" of September, 1913, I expressed more fully than I can do by letter the views I held and still hold on the subject of minimum wage legislation. The view favors a conservative law by which (1) the rate in case of each grade and kind of labor would be fixed by a commission; (2) care would be taken not to set the rate above a normal market rate and thus not high enough to cause a disastrous discharge of workers unable to produce enough to get the legal wage; (3) pro-

vision for exceptional classes that are naturally unable to earn the legal minimum amount; (4) thorough and intelligent measures for the relief of unemployment.

I do not suppose that this summary of points is of great value, but short of repeating the contents of the article, I could hardly present the arguments in their favor.

STATEMENT OF JOHN R. COMMONS

I have had my lectures on the subject taken down and thought I could send you a copy of same, but they are too condensed for practical use. I can only say in reply to your inquiry, that after going over as carefully as possible the literature on this subject for this and foreign countries, I am more strongly convinced than ever not only of the great need of minimum wage legislation, as applied to women, but also of the practicability of drawing up a bill and providing for the machinery which will make it reasonably effective.

STATEMENT OF DAVIS R. DEWEY

I am sympathetically inclined towards legislation establishing a minimum wage in behalf of any class which cannot make itself effectively felt in bargaining with the employer. Just how far such legislation should go, I prefer to leave to experience and take one step at a time. Men, and some women, through trade unions, frequently establish the minimum wage through organized effort. Where workmen are too helpless or too ignorant to secure a fair living wage, I am in favor of State action. It seems to me that history has shown that even if there is not at the outset a corresponding increase in production, better conditions of living tend ultimately to raise the productive power. I am not in favor of laying down any general principles which would be applicable to all classes in all sections of the country, but I believe that society can safely experiment along this line.

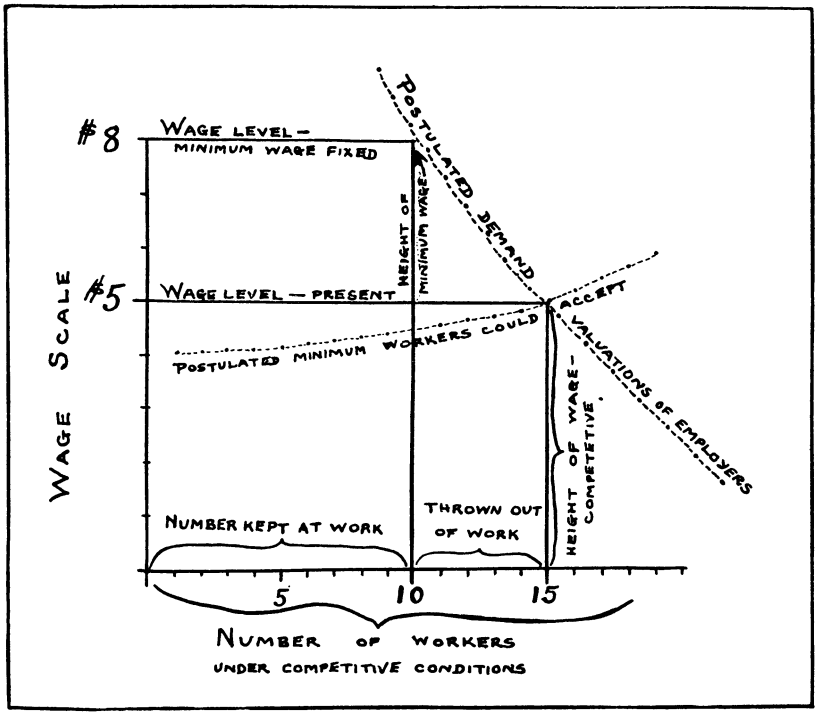
STATEMENT OF FRANK A. FETTER

I am unable to give to a reply the time which such a vital subject deserves to receive from any serious student of economics. I cannot resist your courteously repeated request and I will briefly indicate my point of view.

My attitude is one of grave doubt as to the practical advantages of the minimum wage. This is not an evidence of any lack of interest in, or of sympathy for, the conditions of low paid workers. I readily accept your statement that the investigations have shown that in many cases, wages are insufficient to maintain workers in health and decent comfort. The minimum wage is a doubtful remedy involving in some cases the taking away what wage there is. The plan is in its nature simply negative. An employer cannot be made to pay any particular worker a specified higher wage but he is merely forbidden to pay anybody a lower wage.

In its theoretical aspect, the problem is pretty plain. In a certain industry the number of workers is such that the wage where demand and offer come to an equilibrium is a very low one, say $5.00. The employers can get all the workers that they need at that price. Experience warrants the assumption that some employers (though not so many) would continue to employ some workers (though not so many). (See figure.) By withdrawing a certain number of employees from that trade (those between $10 and $15) the price could be made to rise from $5 to $8 (which, for example, we may call the living wage). The various prices bid with variations in the number of workers demanded may be represented by a postulated curve the exact shape of which could not be known in advance of experience. If in a natural way, the number of workers was cut down in that trade, the price resulting would be a true equilibrium. But a state of unstable equilibrium can be brought about artificially by the legal restriction of the minimum wage law. This cuts off and throws out of employment all the workers represented on the curve below $8. There seems a good reason to believe that this number would be large. For the workers employed below $5 must meet a new group of competitors when the wage goes up to $8. There are tens of thousands of workers in other occupations who would not care for these places

at $5 but who are eager for them at $8. On the part of the employer there are many latent possibilities of substitution; men may take the places of women, better trained workers take the places of poorer trained, machinery introduced that would not pay when wages were lower. In most cases, the cost remaining can be shifted upon customers and business will be curtailed or shut down when this is not the case. There is little aid and comfort in this to large numbers of the workers whose wages it was meant to raise. They lose their positions and not being able to do work for which any employer will, as a mere business matter, pay $8 they are legally excluded from all employment.



Wherever this occurs they have become public charges. The legislature comes face to face then at length with the real problem, the existence of weak, ill-trained workers in particular occupations not worth enough under market conditions to any employer to make it to his interest to pay a living wage, and unable to

shift to any other employment in which better wages are paid. Doubtless some of those who advocate the minimum wage do so with knowledge of its limitations. They do so in the hope of bringing the community at length to see the true problem. They speak and act as social workers and not as economists. I must confess to feeling the temptations of this view and I hesitate to oppose a proposition prompted by such humane sympathies.

Probably much of the advocacy of the measure is on the principle of trial and error. The problem is difficult and no sure solution is in sight. At least we might try the minimum wage and see what happens. If it does not work, it may be that no great harm will be done. Anyhow, we may then try something else. There is, alas, little more reasoning in this than in the fly buzzing against the window pane.

The real issue to be decided is whether to put the weaker class and the weaker members under special public guardianship. This done, the minimum wage is one measure for their relief. There are surely other measures which will act directly upon the causes: limitation of foreign immigration, restriction of the movement of weaker population to cities, compulsory industrial education, fuller custodial care for defectives, the larger development of social insurance, especially survivor insurance for women and children, and other measures with advocates among social students. I wish a profitable outcome to your inquiry.

STATEMENT OF GEORGE G. GROAT

That the subject of legal minimum wage has passed beyond the point of abstract theoretical discussion is evident to any one who has kept posted on the legislation of the last two or three years and the administrative work of various commissions. Discussion, purely academic in nature, is no longer of value. The issue is a practical one. It is the expediency or the inexpediency of entering upon this new policy that is to be determined.

Yet to say that academic discussion is not in place is by no means the same as saying that the principles upon which minimum wage legislation is based are of no importance. Principles

must always lie back of expediency, though it may not always be expedient to apply the principles in any given set of conditions. In short, principles, though always controlling are not of universal application.

The following propositions are governing in determining a legal minimum wage policy:

1. Facts must show that wages paid (annual money income), furnish an income inadequate to provide for a reasonable standard of living set, in part at least, by the conditions of the work. This means a careful investigation. At best, it cannot escape from a degree of error on the standard of living side. Yet even if the results be admittedly approximate, there may remain a sufficient margin of truth on which to rest a strong claim for action. Without this margin, established by accurate investigation, there can be no reason for legislation.

2. The recognition of social economics has proceeded too far to justify one in taking the position that standards of living must always and unconditionally rest upon earnings, particularly when wages paid are synonymous with earnings. The "iron law of wages" has an interest now that is historical only. It is more and more generally recognized that as a matter of social necessity incomes must in some manner be divided so as to make possible the realization of a positive minimum standard of living. Though it is very desirable that this principle should have universal application, it cannot be applied all at once. Yet, a beginning is possible through the establishment of a legal minimum wage wherever the social need for it has been clearly demonstrated.

3. In face of this principle the question of means becomes secondary. A minimum standard being an economic and social necessity, the legal and administrative readjustments become also necessary. This may appear to dispose of practical administrative difficulties somewhat summarily. No other position is tenable, however. Laws and administrative organizations are means, and must be adapted and adjusted to ends outside of themselves. Some retardation in securing these ends may be a practical necessity, but there is danger in overemphasizing this.

4. On the economic side, where low wages are paid to make up for the inefficiency of a manager, when better wages are paid by

some of his competitors, society cannot afford to subsidize its inefficient managers in this way. Competition does not mean that. Competition means at least one thing, and that is the survival of those best adapted to carry on society's industries. There is no justification for allowing one manager to do what others do not do, in this matter.

5. Where prices for the article are so low that low wages must be paid by all in order to maintain the industry, then we are face to face with the choice of low wages with all the social ills that follow or the abandoning of the industry. It may seem heroic to force a choice of this kind. The principles involved are so deep-seated that the choice cannot be escaped. The difficulty is in making consciously the right choice instead of allowing the alternative to exist by default. Readjustments, if brought about slowly, can be affected.

6. The probability of forcing out of work the relatively incompetent because of the necessity for paying a higher wage is a situation that cannot be overlooked. It presents a difficulty that is undoubtedly very real. The fact is, however, that two difficulties hitherto confused are separated and each stands out as a problem in itself. To separate the more from the less efficient is in itself a decided gain. The weak are not then imposing their weakness on the strong. It is better to know the inefficient and face the separate problem of caring for them than to allow them to drag others down below the wage standard that otherwise might be self-supporting.

From these principles the conclusion is inevitable. Where economic forces themselves fail to bring about a distribution of wealth such that reasonable standards of living are possible to maintain with the wages received, some interference with these forces is necessary. Of the many possible ways of accomplishing the desired results, the plan of the legal minimum wage is the least radical remedy that will accomplish the desired result.

STATEMENT OF JOHN H. GRAY

Your inquiry in regard to the minimum wage reaches me at a time when it becomes impossible for me to make any adequate reply, or a reply of more than a very few lines.

I think nearly all men in my line of study have come to the conclusion that, desirable as it is to preserve competition wherever possible, competition is no longer to be trusted to protect the individual where the competition is, on the one hand between as large business units as we have, and on the other hand between as weak members of society, economically considered, as women and children; and any attempt to apply the old doctrine with its concomitant of freedom of contract, in this particular instance, is sure to be disastrous. In view of the present standards of living and the present condition of the class of workpeople under consideration, we are, I think, generally convinced that the results have already been highly injurious to social welfare, and that there are no natural forces which tend to remedy the evil. Therefore, State interference and a public fixing of a minimum wage for this particular class of work people seems highly desirable. It goes without saying that such standards ought to be fixed after the most careful and impartial investigation in each individual instance.

STATEMENT OF M. B. HAMMOND

In the first place, let me say that my information in reference to the working of a minimum wage law has been obtained chiefly as a result of a visit made to New Zealand and Australia during the years 1911 and 1912, when I made a thorough investigation of the working of compulsory arbitration courts and of the wages boards. It is concerning the wages boards that I am now writing you.

First.— In my opinion, a minimum wage law is advisable if it can be secured through legally established wages boards, rather than by the statute itself or by a state commission. If an attempt is made to fix rates of wages by statute or by commission, not enough weight will be given to the differences in the various industries, or to the differences in localities. If a wages board is established for each trade, made up of those who are directly engaged in the trade, there being an equal number of employers and employees, they will know the competitive conditions in the industry which must be met, and what are the possibilities in the way of a minimum wage.

I do not favor, therefore, such a plan as is now found in the state of Utah, where the legislature has fixed what it regards as a proper wage for women engaged in industry, nor do I favor the plan now in use in Oregon and Washington, where a state commission, after investigation, fixes one rate for manufacturing industries throughout the state outside the chief industrial centers, and another for the same industries in the large cities; still another rate for those engaged in mercantile establishments, etc.

Second.— I am inclined also to believe that it is a mistake to have on a wages board any more than one person, aside from those who are there to represent the employers and employees. There must be this one person (the chairman) to give, if necessary, the casting vote, otherwise, frequently, no conclusion whatever will be reached. If, however, other persons, supposed to represent public interests, act on these boards, they will throw the weight of their sympathies or business interests in favor of one side or the other, and the minimum wages fixed will not represent the opinions of those who are alone able to realize what an industry is able to stand.

The move to have certain representatives of the public at large on the boards, undoubtedly, proceeded from good motives, but since it is impossible to proceed too rapidly in the matter of readjusting wages without causing embarrassment to the industry, I think it is decidedly better that a wage board should as nearly as possible be a case of pure collective bargain, such as is found when employers and trade unions meet to fix a wage scale.

Third.— The fixing of wages carries with it, of necessity, the fixing of the maximum number of hours for which wages are to be paid. It also makes necessary the establishment of rates to be paid for overtime, and also the number or proportion of apprentices in the trade. Failure to fix the number of apprentices means that juvenile labor will be used to displace adult labor, as appears to be the case now in the state of Oregon, if reports from there are correct.

In Victoria, the first law establishing wages boards gave authority to the board to fix the number or proportion of apprentices, but owing to the objection of employers, this power was later taken from the board. Removal of this power produced something like

chaos in a number of industries, especially in certain branches of the clothing trade, and there was a great increase in the number of juvenile workers with a corresponding decrease in the number of adults.

It was therefore found necessary to restore to the board the power to fix the number and proportion of apprentices. The exercise of such power, undoubtedly, causes more or less hardship, especially to the smaller establishments, but it seems to be essential to the working of the wages board plan.

Fourth.— If it were possible in the American States to establish a minimum wage for men as well as for women and young persons, I should certainly favor such a plan. In my opinion, the minimum wage is needed for unskilled male labor fully as much as for female labor. Owing to the attitude of the courts, however, such legislation may not be advisable. In the state of Ohio, a recent constitutional amendment makes a minimum wage for men as well as for women permissible, but even then, there is danger that the Federal courts might hold that such a law would impair the obligation of contracts.

There are many difficulties, however, in fixing the minimum wage for women and not for men. There is danger that it will cause, to a certain degree, a displacement of women by men. Even where the minimum wage can be fixed for both men and women, such displacement has taken place at times when the board undertook to establish equal wages for men and for women. The author of the Wages Board Law in Victoria, Sir Alexander Peacock, at first proposed to create boards which should fix the minimum wage for women and for young persons only, but when the matter was discussed in Parliament, the opinions of the business men seemed to be that this would result in displacement of women, and therefore the act was made applicable to men as well as to women.

Fifth.— Under any system of wage regulation, which attempts to fix a minimum wage, there will inevitably be a certain displacement of labor, particularly of the old, infirm and naturally slow workers. Of course, this need not be the case if the workers are employed on piece rates. Even then, however, I am inclined to think that many manufacturers will get rid of those who are

unable to work up to a certain satisfactory standard. If they are employed on time wages, they are certainly displaced unless the law also gives authority to those administering the act to grant permits to the old, infirm and naturally slow workers to continue to work at a rate of pay less than the minimum established by the board, but at no less than the rate fixed in the permit.

Such a system seems to have worked fairly well in Victoria and other Australian states with either the wage board system or the compulsory arbitration court method of regulating wages. Even then there are unquestionably a certain amount of displacements, since many employers do not care to employ men whose low productive power is evidenced by the possession of a permit.

Sixth.— A successful administration of a minimum wage law, whether this minimum be fixed by wages boards or otherwise, will necessitate the employment of a considerable force of inspectors. In Australia, these inspectors are the regular factory inspectors, but some idea as to the number needed may be furnished by the statement that in Melbourne, a city of less than 600,000 population, there are in the neighborhood of thirty inspectors, who look after violations of the minimum wage law, as well as violation of the factory laws. In fact, in Victoria, the minimum wage law is merely a portion of the General Factories Act.

There are many other matters which need be dealt with in connection with the proposal for minimum wage legislation in this country, but I think I have touched on what appears to me to be the most important ones which come up for consideration.

STATEMENT OF E. W. KEMMERER

In your letter of October 1st you say that you are requesting a small number of economists to assist your commission by submitting a memorandum on the subject of minimum wage legislation, and you ask me to submit such a memorandum giving my views as to the reasons for such legislation, the extent to which it should be enacted, and the difficulties of administration to be overcome. Because of the public interest involved in the satisfactory solution of this problem, I take pleasure in complying

with your request, although I have no claim to being an expert in this branch of economics.

The principle of the minimum wage is sound in economic theory and its practicability is supported by a substantial amount of successful experience, running over a number of years in other countries. The time seems to me to be opportune for the introduction of minimum wage legislation into the State of New York. Although it should be remembered that progress in such a reform must be made slowly if it is to endure, and that, largely through the method of trial, error, adaptation and re-trial.

The argument in favor of the minimum wage that appeals to me most strongly may be stated as follows: Competition works very imperfectly, and, from the social point of view, inadequately, in providing a fair wage for certain classes in the community who are weak in their bargaining powers because of ignorance, lack of organization and immobility. The causes for this have recently been well summarized by Professor Henry R. Seager in a presidential address before the American Association for Labor Legislation (*American Labor Legislation Review,* February, 1913, pp. 81-91) and therefore need not be enumerated here.

The result of this condition is that many industries have in a considerable degree become parasitic, such for example as most of our "sweated" industries and many of our department stores. The wages paid are not sufficient to maintain the physical and moral efficiency of a large part of the workers.

The manufacturer conserves his machines because they belong to him and when they are worn out he must buy new ones, and he sets aside a part of his profits every year to cover their depreciation, so that when the old ones are worn out funds are at hand for new ones. The case of purchasing labor on the other hand is like renting a machine without financial responsibility for the condition in which it is returned. The employer in sweated industries for example has little selfish motive in maintaining the future efficiency of his "human machines" since they do not belong to him, and when they have been exploited to the limit they can be thrown upon the scrap heap and be replaced by others. Society, however, must meet the "depreciation

charges" in the form of charities and institutions for the care of defectives and criminals. The social expense of such exploitation is often a continuing one, since the victims are not only those who have been themselves exploited but often also their children. Or again the situation is analagous to that which at one time was common in this country when farmer tenants under severe competition robbed and ruined the land belonging to others in order to obtain a large temporary profit, and without regard to the consequences for the land owner or for the community.

The great difference between these two illustrations and the type of exploitation we have in parasitic industries, is that in the latter case it is not an iron machine or a piece of land that is being exploited but the lives of human beings.

In these industries it often happens that many employers would be glad to pay a fair compensation to their employees, but are unable to do so because of the competition of less scrupulous competitors. An excellent illustration of this principle was recently given by Mr. Paul U. Kellogg, editor of The Survey (*American Labor Legislation Review,* February 1913, p. 103–104). He said:

> "As things now stand, the progressive employer is at a disadvantage. He must use up most of his moral energy in refraining from being as bad as his worse competitors. If we can wipe out that subnormal competition, then we can release as new constructive factors in industrial life the no longer hard-pressed moral energies of progressive managers. For example, it is common practice for the laundries of the United States to require their ironers to work half the night on Fridays; this night employment results in broken health and broken virtue for hundreds of women yearly; but we realize that here is something which hinges on more than the moral decision of any one laundry owner, that if one employer refuses to work his plant Friday nights so as to clear up the week's wash and give us our clean linen for Sundays his customers will automatically go to other laundries and he will be put out of business. Therefore it is that we seek legislation that will prohibit night work for all

women in laundries, put all plants on an equal footing, and make the man with the dirty bundle of linen pay in punctuality what has been and is now in many American cities being paid in wasted lives. Our challenge to the laundry owner is for his moral support in securing such legislation, and in seeing that it is enforced, so that the common rules of life and labor shall be more livable.

"Very similar is our challenge to employers for their support in the matter of minimum wage legislation — as the first best chance, not of harnessing industry to an impossible governmentalism, but of releasing industrial managers from their present entanglements with the methods permitted by those of their fellows who care nothing for the human element in industry."

The marginal laborers working for less than a minimum wage exercise an influence upon the wages of others often entirely out of proportion to their numbers.

To meet these evils society must level up and standardize the rules under which such industries may be conducted. An industry that cannot pay to a normal individual of the unskilled class a wage for full time service at least sufficient to maintain his physical and moral efficiency, as a human being living under a civilized community, is parasitic and should not be permitted by society to live. If there are in the community, as some claim, large numbers of laborers not capable of rendering a service worth a living wage, society should know this fact at once and should make provisions for taking care of these people as subnormal persons and in a degree at least as wards of society. They should not be permitted to compete on the same plane with normal persons.

If the above reasoning is sound, the logical conclusion is that the minimum wage principle should be extended to all classes of labor. This seems to be the tendency in Australia, the country which has had the longest experiences with minimum wage legislation. Much can be said under the present circumstances in favor of moving slowly at the start, and it seems to me that for the time being it would be well to follow the lead of several of our American commonwealths (California, Colorado, Massachu-

setts, Nebraska, Oregon and Washington) and make the law applicable only to women and minors under eighteen years of age.

The chief administrative difficulties seem to me to be two in number. First: The determination of proper minimum wage scales in different industries, and especially for the same industry in different parts of the State. Second: The handling of subnormal and "learner" classes in such a manner as not to do them an injustice and at the same time not to open up the law so wide as to let in grave abuses under political pressure. To meet these and other difficulties the law must be very exact and large discretionary power must be given to the commission in charge of its administration. The success or failure of the plan will depend in a great degree upon the personnel of the commission, and especially the first commission. For the State of New York to attempt to economize here, as done in many other States, would be a serious mistake. The California law, which on the whole appears to me to be the State law most worthy of imitation, provides for a commission of five persons, of which one shall be a woman, the term of office to be four years, and the compensation to be $10 a day and expenses. I would make the commission one of five persons, at least one being a woman, and would make the term five years, one member retiring each year. The commissioners should devote all their time to the work, and the compensation should be sufficient to secure a high grade personnel, and not less than $5,000 a year.

The commission should be authorized on its own initiative to investigate any industry whose wage conditions seem to demand investigation, and should be required to investigate any industry upon the request of a certain number of persons (employees or others), say fifty or more, or at the request of 10 per cent of the employees in the industry, or at the request of employers of such a number of employees. In regard to the subpoenaing of witnesses, examination of books, etc., the commission should be given as large powers as those given the Industrial Welfare Commission in the California law. The commission should have power similar to that given in the California law (section 6) to enforce its decisions, and decisions thus made should not be subject to reconsideration by the commission in less than one year.

Wage boards should be authorized similar to those provided in the Nebraska law of 1913, that is, boards consisting of three representatives of employers, three representatives of employees and three others appointed by the commission as representatives of the public at large. At least two of these boards of nine should be women. The wage board should be given essentially such powers and duties as are given to the wage boards in Massachusetts by section 4 of chapter 706 of the Labor Laws of Massachusetts. The members should receive the pay provided in the California law, namely $5 a day and expenses, in order to secure good representatives, and a two-thirds vote should be required before a report is made to the commission, except in such cases as the commission shall rule otherwise.

With regard to licensing of subnormal laborers and learners, section 13 of the Washington law of 1913 is good. It provides:

> "For any occupation in which a minimum rate has been established, the commission through its secretary may issue to a woman physically defective, or crippled by age or otherwise, or to an apprentice in such classes of employment or occupation as usually require to be learned by apprenticeship, a special license authorizing the employment of such licensee for a wage less than the local minimum wage; and the commission shall fix the minimum wage for such persons; such special licenses to be issued only in such cases as the commission may decide the same is applied for in good faith; and that such licenses for apprentices shall be in force for such length of time as said commission shall decide and determine is proper."

I would alter this provision by introducing the California practice of requiring the licenses to be renewed every six months, and by introducing the Minnesota practice of limiting the number of such licenses in any establishment, for women, to 10 per cent of the employees in that establishment. Possibly it would be well to widen this latter provision by making it less rigid, giving the commission a certain discretion in regard to the percentage allowed. It seems to me that the licensing provision for subnormals might here be extended to minors, at any rate those above

a certain age, say fifteen. Any concessions in regard to the employment of subnormals should be given full publicity.

There should be embodied in the law rigid provisions to prevent employers from discriminating in any way against employees who testify in any way in labor investigations, and to enable employees who have not been paid a wage as high as the established minimum wage to recover the difference easily with interest and costs (follow essentially section 13 of the California law, but add "interest"). The provision of the California law with reference to the matter of appeals to the courts from the decisions of the commission (section 12) seems sound. The questions involved will be largely economic, and not legal, and the persons best qualified to pass upon these questions will be the members of the commission. If a high degree of publicity is required concerning these decisions and the grounds upon which they are based, the interests of all parties will be adequately safeguarded. As provided in the California law, I would permit the courts to set aside a decision of the commission only upon questions of law (not of fact) or in case it was proven that the decision was secured by a fraud, or that the commission had acted outside of its powers.

One of the most useful functions of the minimum wage commission should be in educating the public of the State as to the conditions which actually prevail in certain parasitic industries. To be effective the law should require vigorous and pitiless publicity of these facts, and great care should be taken that proper statistics should be collected, scientifically classified, and made accessible to the public.

The above suggestions although given in a categorical form for the sake of brevity, are not given with a categorical spirit. They are given with many doubts and are intended to be merely tentative suggestions.

STATEMENT OF SCOTT NEARING

1. *The Necessity for a Minimum Wage.*

The necessity for some form of government interference with the present standard of wages is made manifest by a contrast be-

tween wage scales and the amount of income necessary to maintain an efficiency standard of living.

The definition of a "standard of decent living" is a very highly involved and difficult matter, nor can any final standard be established. The ideals and ideas of successive generations change so utterly that the decent standard of one decade might fall far short of furnishing a decent standard for the next. In general, a standard of decent living consists of such an amount of food, housing, clothing, and the other necessaries of life as will maintain physical health, provide a reasonable privacy in the home, enable the family to go on the streets in clothing not noticeably inferior to that worn in the neighborhood and permit parents and children alike to be normal members of the community in which they live. Such a wage is not a starvation wage — it provides the bare necessaries of twentieth century American life, together with the minimum of comforts.

The relation between various forms of expenditure is well established. The American city family[1] with an income of less than $1,000 a year spends two-fifths of its income for food, one-fifth for rent, one-sixth for clothing, and the remainder (one-fifth, plus) for incidentals, including fuel and light, health, insurance, saving, car fare, furniture, recreation, books and newspapers, and sundry minor items.

At the outset, it should be borne in mind that the primary question before any family relates to the amount, and not to the price of the goods needed for family support. There is a certain minimum of food, clothing, shelter, and the other necessaries of life which men require. That minimum exists in terms of eggs and butter, shoes and overcoats, medical attention and school books; it is fixed by the demands of nature and of society wholly independent of cost or price, hence the first question which arises in the discussion of a subsistence wage, concerns itself with the amount of various commodities which will constitute subsistence living.

[1] The word "family" as used in this connection will mean a man, wife and three children under fourteen. The standard is arbitrary. Roughly, it corresponds to the "average" family. Actually it is adopted because it is near the "average" and some standard must be established before intelligent discussion is possible.

The measurement of the amount of food necessary to maintain a standard of living is by far the easiest part of the problem. Food requirements are ordinarily stated in calories or energy units. The United States Department of Agriculture, which had made some valuable experiments on food values, states that man in the full vigor of life, doing moderate muscular work, requires each day a quantity of food containing, as it is purchased, 3,800 calories of energy. By the time this food is eaten, it will contain but 3,500 calories, from which quantity the digestive system extracts 3,200 calories of energy.[1] Rowntree insists that this estimate of 3,500 calories for a man doing "moderate muscular work," must be interpreted in terms of very moderate work if it is to be adequate.[2] It is generally conceded that from 3,200 to 3,800 calories of energy, depending upon the intensity and character of the work done, must be supplied to the body each day.

The body has as much need of heat units as a locomotive has need of the heat units which it derives from coal. As food furnishes this energy to the body, men must determine how much food the body needs.

The determination of the amounts of housing, clothing and fuel and light necessary to the maintenance of a standard of living, is a much more difficult problem than that involved in the determination of a food standard, because there is no way of stating in absolute terms what amount of these things is requisite for the running of the body on an efficiency basis. The best that can be said is that (1) necessity, (2) hygiene and (3) decency are the governing factors in each decision. There is certainly a minimum amount of each of these goods necessary for the maintenance of a decent living standard. Similarly, expenditure for car fare, health, insurance and sundry items must be locally determined. What that amount may be, it is difficult to say generally, though it may be readily determinable in each specific case.

Two distinct problems present themselves in a study of the standard of living. There is first, the problem of bare subsist-

1 Year Book of the United States Department of Agriculture, 1907, p. 371. Article by C. F. Langworthy.

2 "Poverty," B. L. Rowntree, London, Macmillan Company, Ltd., 1901, pp. 1–97.

ence; second, the problem of a "normal," "decent" or "fair" standard of living. The problem of a normal or fair standard of living is an essentially different one from the problem of a minimum or subsistence standard. In contrasting the minimum standard and the fair standard, the author of a recent Federal report states: "The minimum standard is a standard of living so low that one would expect few families to live on it. It will be conceded that a standard of living upon which people are to live must include many things that are not allowed by the minimum standard. It must be a standard that provides not only for physical efficiency but allows for the development and satisfaction of human attributes. Just what is to be included in such a standard depends upon the people to whom it is applicable. Manifestly, a standard that would be considered fair by a laboring man would not appear fair to a financier. Those possessing different degrees of wealth have come to look upon different things as essential to their manner of life."[1] A minimum standard will keep body and soul together. A fair standard will maintain the health and efficiency of a family, and insure it against physical deterioration, poverty and misery.

The determination of the amount of goods necessary to provide a subsistence standard and a fair standard of living constitutes the first step in the determination of the cost of such a standard. How many goods are needed? How much do these goods cost? Thus the questions follow.

It is possible by taking a given family in a definite locality, to estimate the cost of the minimum standard to that family. For example, in a southern mill town, for a family of a man, wife and three children (a girl of 10, a boy of 6, and a boy of 4), the cost for food and clothing would be[2]

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[1] Woman and Child Wage Earners in the United States, Senate Document, No. 645, 61st Congress, 2d Session, Washington Goverment Printing Office, 1911, Volume XVI, p. 142.

[2] Ibid, p. 141. An itemized statement of menus, articles of clothing, etc., will be found in the report.

TABLE I

COST OF FOOD AND CLOTHING FOR ONE YEAR FOR MEMBERS OF A TYPICAL NORMAL SOUTHERN MILL TOWN FAMILY — MINIMUM STANDARD

MEMBERS OF FAMILY	Food	Clothing	Total
Father	$74 88	$18 75	$93 63
Mother	59 90	9 25	69 15
Girl (10 years)	44 92	14 83	59 75
Boy (6 years)	37 44	10 00	47 44
Boy (4 years)	29 97	5 85	35 82
Total	$247 11	$58 68	$305 79

Adding to this total of $305.79, the cost for rent, fuel, light and sundries ($102.47), it appears that a family such as the one under consideration would require $408.26 annually to maintain a minimum standard of living in the small mill towns of North Carolina and Georgia.

This standard is by no means a liberal one, and the probabilities of maintaining a living upon it are most precarious. Furthermore, "there can be no amusements or recreation that involve any expense. No tobacco can be used. No newspapers can be purchased. The children cannot go to school, because there will be no money to buy their books. Household articles that are worn out or destroyed cannot be replaced. The above sum provides for neither birth nor death nor any illness that demands a doctor's attention or calls for medicine. Even though all these things are eliminated, if the family is not to suffer, the mother must be a woman of rare ability. She must know how to make her own and her children's clothing; she must be physically able to do all of the household work, including the washing. And she must know enough to purchase with her allowance, food that has the proper nutritive value."[1] Apparently, if a woman is to support a family on this income, she must have a skill and power of management which would bring her from $6 to $12 a week if she were at work in an industrial establishment in the same locality. Needless to say, most women have no such ability, and this is particularly true in the lower income groups. Among the families of

[1] Ibid, p. 142.

lowest income, where the necessity for thrift and careful management are the greatest, the opportunities that children have to acquire these virtues are the least. Hence the assumption of the remarkable qualities which the authors of the government study demand in a woman who is to pilot a Georgia family through 365 days on $408.26 seems unjustifiable. The exceptional woman may possess them; the average woman does not.

The cost of a minimum standard in a Massachusetts city varies somewhat from the cost for the southern States. A computation similar to that made for the southern States shows the amount necessary to maintain a minimum standard of living in a normal family.[1]

TABLE II

COST OF FOOD AND CLOTHING FOR ONE YEAR FOR MEMBERS OF A TYPICAL NORMAL MASSACHUSETTS FAMILY — MINIMUM STANDARD

MEMBERS OF FAMILY	Food	Clothing	Total
Father	$83 20	$23 80	$107 00
Mother	66 56	15 45	82 01
Girl (10 years)	50 52	18 50	69 02
Boy (6 years)	41 60	13 25	54 85
Boy (4 years)	33 28	9 00	42 28
Total	$275 16	$80 00	$355 16

The total cost of maintaining a minimum standard of living in this city ($484.41) is slightly in excess of that required in the southern states, largely because of the increased amount apportioned for food and rent. The housewife in Massachusetts is to be the same type of superwoman as that demanded in the Georgia estimate.

The Chapin study does not make any detailed statement of the cost of a minimum standard of subsistence, but the conclusions relative to incomes of from $600 to $700 may be compared with the conclusions in the Federal study, since they refer to a group living in an essentially similar economic status. Dr. Chapin writes: "It seems fair to conclude from all the data that we have been considering, that an income under $800 is not enough to permit the maintenance of a normal standard. A survey of the

[1] Ibid, p. 237.

detail of expenditure for each item in the budget shows some manifest deficiency for almost every family in the $600 and $700 groups. The housing average shows scarcely more than 3 rooms for 5 persons. Three-fifths of the families have less than 4 rooms and more than 1⅓ persons to a room * * * One-third of the $600 families are within the 22-cent minimum limit for food, and 30 per cent. of the $700 families spend 22 cents or under. In the same way, the average expenditure for clothing in neither of these groups reach $100, and 30 per cent. of the families are in receipt of gifts to eke out the supplies of clothing. In sickness the dispensary is the main dependence of these families. The returns as to the furnishing of the houses shows that in the $600 and $700 groups adequate furnishing is scarcely attained.[1] In short, the families living in New York City on incomes between $600 and $700 may afford none of the incidental comforts, and are so reduced for necessaries that a decent standard of living cannot be maintained.

The minimum of the Federal Investigation makes no allowance for sickness, saving, insurance, amusement, or recreation, and the Chapin study allows little or nothing for these purposes. Nevertheless, it appears that in a large city where rents are high (the New York families with incomes between $600 and $700 paid an average rent of $153.59), an income less than $600 will not provide even the necessities of existence. In districts, on the other hand, where expenses for rent are low ($44.81 in the southern states and $78 in Massachusetts) an income between $400 and $500 will provide a family with the barest necessaries.

This data is obviously inadequate as a basis for any general statement. Yet, for the localities under consideration, it seems obvious that the sums named are scarcely sufficient to prevent family dissolution. That families live on such incomes is beyond question. That underfeeding, congestion, insanitation, and physical decadence are the frequent products of such living, goes almost without saying.

The actual number of items allowed for a fair standard of living is somewhat greater than the number allowed for a minimum

[1] "The Standard of Living Among Workingmen's Families in New York City," R. C. Chapin, N. Y., Charities Publication Committee, 1909, p. 245.

standard, hence the cost of the standard exceeds, by a considerable amount, the cost of the minimum standard. The Federal report already referred to, fixes the cost of a fair standard for the southern mill town at $600 per year. This amount of income "will enable him (the father) to furnish them good nourishing food and sufficient plain clothing. He can send his children to school. Unless a prolonged or serious illness befall the family, he can pay for medical attention. If a death should occur, insurance will meet the expense. He can provide some simple recreation for his family, the cost not to be over $15.60 for the year." [1]

The same relation exists between the cost of maintaining a fair standard in the South and in Massachusetts as that established for the minimum standard. The total cost of providing a fair standard for the English, Irish, and Canadian French in the Massachusetts city is fixed at $731.98.[2]

The Chapin study was made for the avowed purpose of determining the cost of a fair standard, and particular interest therefore attaches to the conclusions reached as a result of that investigation. In summing up his study, Dr. Chapin writes: "An income of $900 or over probably permits the maintenance of a normal standard, at least so far as the physical man is concerned." Regarding incomes below $900, Dr. Chapin makes the following statement: "Whether an income between $800 and $900 can be made to suffice is a question upon which our data do not warrant a dogmatic answer." [3]

One other less complete, but highly satisfactory study has been made of Standards of Living in the Stock Yards District of Chicago. After an exhaustive investigation of which a rather complete analysis appears in published form, the investigators report that the minimum amount necessary to support a family of five efficiently in the Stock Yards District is $800 per year.[4]

There have been several other investigations and estimates, less complete and less conclusive, which lead to the same general con-

[1] Woman and Child Wage Earners, op. cit., Volume XVI, p. 152.

[2] Ibid, p. 244.

[3] "The Standards of Living Among Workingmen's Families in New York City," op. cit., p. 246.

[4] "Wages and Family Budgets in the Chicago Stock Yards District," J. C. Kennedy and others, University of Chicago Press ,1914, p. 80.

clusion, namely: that in the industrial cities of the northeastern United States, the cost of a decent standard of living for a family consisting of a man, wife and three young children, varies from $750 to $1,000.

Whether a family is living on a minimum standard or a fair standard of living, its bills must be paid by the use of income derived from some source. It costs $750 for a family to maintain a decent standard of living in a certain town. The question of immediate importance before that family relates itself to the means by which an income of $750 can be procured.

There are four principal sources of family income: (1) earnings of the father; (2) earnings of the mother; (3) earnings of the children; and (4) the contributions of boarders and lodgers. In addition to these four generally-relied upon sources, there are a number of incidental ones, such as kitchen gardens, the collection of wood, cast-off clothing and furniture, charity contributions and the like.

A generally accepted Federal report covering 25,440 families in 33 states gives the sources of family income as follows:[1]

TABLE III

PER CENT OF FAMILY INCOME DERIVED FROM VARIOUS SOURCES

Husbands	79.49
Wives	1.47
Children	9.49
Boarders and lodgers	7.78
Other sources	1.77
	100

The contribution of husbands, including those families in which there were no husbands, constitutes four-fifths of the whole family income. Women and children together contribute one-tenth, while boarders and lodgers supply the remaining one-tenth. The other studies in this field lead to the same conclusions.

[1] Report of the United States Bureau of Labor, 1903, Washington Government Printing Office, 1904, p. 51.

Any attempt to contrast the cost of a minimum or fair standard of living with the amounts of income earned, in order to discover whether the incomes received are sufficient to enable the recipients to provide a certain standard, necessarily meets with the most extreme difficulties. Families vary in size less than individuals vary in the qualification for earning. Both variations make general statements dangerous. Comparisons are rendered more difficult by the lack of data regarding the incomes of women and children.

The most hopeful approach to the problem is of necessity made through the study of the wages of adult males. This is the great source of family income, and must continue so to be while the present organization of the family and of industry continues.

A number of recent investigations throw considerable light on the wage rates of adult males. There are, first of all, the Census figures, showing classified wages in the manufacturing industries; then the Bureaus of Labor Statistics publish good wage data in Massachusetts, New Jersey, Kansas, Wisconsin, Oklahoma, and California; the State Labor Bureaus and particularly the Federal Labor Department have made special studies of the wages in certain industries, such, for example, as the steel industry, the textile industries, and the like; and finally the Tariff Board presented some excellent wage studies. All of these figures lead to the general conclusion that in the industries of the United States, lying east of the Rocky Mountains and north of the Mason and Dixon line, half of the adult males in American industries receive less than $600 a year, that three-fourths are paid less than $750 a year, while nine-tenths earn a wage under $1,000 a year.[1]

This conclusion is reached by multiplying the weekly wage rates by 52. It therefore allows nothing whatever for that unemployment which is so constant a factor in industrial society.

A typical wage scale is that furnished by the Bureau of Statistics of New Jersey for males, 16 years of age and over, employed in that state during 1912.[2]

1 "Wages in the United States," Scott Nearing, New York, Macmillan Company, 1911.

2 Bureau of Statistics of New Jersey, 1913, Paterson, 1914, p. 124.

TABLE IV

MALE EMPLOYEES IN THE MANUFACTURING INDUSTRIES OF NEW JERSEY, WHO EARNED CERTAIN RATES OF WAGES, 1913

CLASSIFICATION OF WEEKLY WAGES	Total employed	Per cent
Under $5	5,896	2.3
$5 but under $8	24,710	9.5
8 but under 10	47,403	18.3
10 but under 12	49,342	19.0
12 but under 15	49,151	19.0
15 but under 20	52,494	20.2
20 but under 25	18,983	7.3
25 and over	11,362	4.4
	259,341	100

Although wages vary somewhat from industry to industry and from one geographical region to another, this compilation for New Jersey gives an excellent picture of a wage scale paid to a quarter of a million men in one of the great industrial states. A comparison of the wages of adult males with the data relative to the cost of a standard of living, leads to the conclusion that if a minimum standard of living for a normal family costs from $450 in a small industrial town to $650 in a large city that approximately half of the male wage earners working under such a wage scale are unable to provide a minimum standard in a small town and approximately two-thirds are unable to provide a minimum standard in a large city. On the other hand, since a fair or an efficiency standard for a normal family involves an outlay of from $750 in a small industrial town to $900 in a large city, two-thirds of the wage earners in small towns and three-fifths of the wage earners in large cities are unable to provide a fair or efficiency standard for a normal family.

There is one Massachusetts city in which an inquiry into wages and the cost of a decent living standard were made simultaneously.[1] The city investigated depended primarily upon the textile industry. Among the adult males employed in the textile industry in this city, three-fifths of the adult males earned less than $416

[1] "Financing the Wage Earner's Family," Scott Nearing, New York, B. W. Huebsch, 1913, pp. 116–117.

per year; nine-tenths earned less than $624 per year. Compare these figures with the $484.41, minimum standard, and the $690.95 efficiency standard, established by the Federal study, and it appears that the wages earned in this one city by males over 21 years of age, are, in over half of the cases, insufficient to maintain a minimum standard, and in over nine-tenths of the cases insufficient to maintain a fair standard for a family of three children. The one instance in which comparable statistics of standards and wages are available, confirms the impression of the general statistics regarding the utter inadequacy of the wages of many adult males to provide efficiency or even subsistence for a normal family.

The statement cannot be too often reiterated, nor too strongly emphasized, that these figures are estimates. They are stated in bald fractions because the facts on which they are based, do not justify any other form of statement. No wise statistician would venture an even approximate judgment on material of so scanty a character as that provided by the investigation in Massachusetts, North Carolina, Georgia, New York City, Buffalo and Chicago.

There are, then, a considerable number of adult males working in the industrial districts of the United States under a wage scale that is insufficient to provide a minimum or subsistence standard of living, while an overwhelming majority receive a wage insufficient to provide an efficiency or fair standard. Hence the patent necessity for some additions to the father's wage through the efforts of the mother and the children.

2. *The Effect of Minimum Wage Legislation*

The need for some form of legislative interference with the present economic situation of the semi-skilled and unskilled wage-earner seems to be manifest. The efficacy of a minimum wage law passed at the present time by a State legislature is a matter for serious consideration. Wage earners, employers and consumers will be affected in some measure by the act.

Suppose that a stringent minimum wage law were passed. It would affect, first of all, the wage-earning group, by stopping wage-cutting competition among low-skilled laborers; by forcing inefficient persons out of employment; by raising to a higher

level, or eliminating the submerged labor element; and by leveling down the wages of higher standard labor groups. There seems to be little question but that the minimum wage will act surgically on the lower levels of wage-earners. It will prevent the disastrous effects which have followed from competition among these lower groups. It will at the same time throw out of employment such of the lower-grade laborers as cannot meet the requirements which the employing class is bound to exact in return for the advanced wages.

The leveling-down process toward which the minimum wage will tend is manifest at the present time, as a result of trade union activity. Theoretically, the trade union fixed a minimum wage; practically, it fixes a maximum at the same time. Theoretically, the law will fix a minimum, below which no employer can go; practically, employers will resist bitterly every effort to fix a wage above this rate. To be sure, the minimum wage will not be invoked in employments which are classed as highly skilled. Therefore such employments will be exempt from any direct action of the leveling-down process. Within the employments where the minimum wage will be invoked, the leveling-down process seems to me to be an inevitable one.

Secondly, the minimum wage will have its effect upon the employer. The low-standard employer, the sweater, the marginal man, will be eliminated, as will be the marginal laborer. Highly submerged industries, such as the sweating industries, will in some cases be destroyed. Generally speaking, however, the great body of employers will face little or no financial loss as a result of minimum wage legislation.

Three forces will prevent a loss to employers from minimum wage legislation. In the first place, the imposition of a minimum wage will lead to a decrease in the number of inefficient persons employed, and therefore to an increased working efficiency for the entire plant. The imposition of a minimum wage will probably not increase the labor cost per unit of output except in those industries which now pay wages far below the legal minimum rate. The increased efficiency resulting from the minimum wage demand will guarantee this, and the increased esprit de corps of the working forces will insure it. Furthermore, if it appears to

the employer that the minimum wage is threatening his net earnings, there is scarcely an industry in which the employing group is not sufficiently strong to organize, raise prices, and thus hand on the increased wage rate to the consumer in the form of higher prices.

The effect of minimum wage legislation upon the public will be more far-reaching and drastic than its effect upon the workers as a group, or upon the employers as a group. There will be more dependence as a result of the unemployment that inevitably accompanies the imposition of higher standards in industry. In many communities standards of living will be materially raised because of the minimum wage that workers are able to secure. In practically every field, however, there will be a material increase in prices, bulwarked by the excuse that the increasing wage has necessitated price increases. There seems to be no escape from the conclusion that at the present time the employing interests in the United States are enormously powerful, and very closely knit together in their broader activities. The general rise in prices at the outbreak of the European War furnished an excellent illustration of the psychology of American producers. Without conspiracy or pre-arranged plan, their clearly understood interests led almost immediately to concerted action. Unless a price-fixing power accompanies the general enactment of minimum wage legislation, the public will be called upon to pay an increase in prices which will cover the increased labor cost, plus whatever price increases the employing group is able to saddle on the public under the plea of increased wages.

The minimum wage is a reform neither drastic nor far-reaching in itself. It will not touch the larger relations between capital and labor in any way. The minimum wage is a necessary part of any broad gauge program of reform. Coupled with price-fixing power, it will prove as efficacious as any regulative measure can. The minimum wage, by itself, will eliminate some industrial sore spots, but the public will pay dearly for every gain.

You will note that I have discussed the necessity of minimum wage legislation from the standpoint of the family. Too much emphasis has, in my opinion, been laid on minimum wages for women and children, and too little on a minimum wage that will insure family income.

STATEMENT OF EDWARD ALSWORTH ROSS

I favor State supervision and regulation of wages paid to women and minors for the following reasons:

1. These classes of workers are usually weaker bargainers than those to whom they sell their labor.

2. Owing to their defenceless economic position they are rarely able to hold off from a bad bargain as stubbornly as the buyers of their labor.

3. There is no prospect that these workers will be able to strengthen their position by unionization as adult male workers have sometimes been able to do.

4. Sharp competition between manufacturers does not necessarily result in employers bidding up for such workers; such competition may simply result in lowering the price of the product to the public. Thus the ultimate exploiter of underpaid labor may not be the employer at all, but the public which is buying a product or a service at less than it is really worth.

5. The underpayment or the over-work of girls and young women is more far-reaching in its harm to society and the race than any other economic ill. Under-nourishment or over-exertion sap the vitality needed for the successful bearing of the burdens of wifehood and motherhood.

6. The wretched existence of underpaid working girls handicaps virtue in its resistance to the allurements of the gilded life of vice and contributes to prostitution, the deadliest enemy of the home and of race perpetuation.

7. Whole groups of underpaid workers may in consequence of underliving sink into such a condition of inefficiency and hopelessness that they are altogether powerless to extricate themselves from it by their own efforts. Such a situation justifies the reaching down of a strong arm from outside.

8. When the employer enjoys a complete or partial monopoly, the raising of wages by State action may diminish his monopoly profits; when employers are in keen competition, the effect is not to lessen their profits but possibly to lift the price of their products to the public.

9. The subjection of home manufacturers to competition with

outside manufacturers underpaying their labor does not forbid State regulation of wages because the efficiency of the workers may increase *pari passu* with the raising of their wages. In such cases, however, prudence may require the wages to be advanced by degrees.

10. State action on wages should be exercised through a permanent commission acting only upon adequate investigation and with power to alter the legal wage to meet changing conditions.

STATEMENT OF JOHN A. RYAN

(Reprinted from the "Live Issue.")

At least six states of our country now have some form of minimum wage laws. They are Massachusetts, Minnesota, Oregon, Washington, California and Utah. Some three or four others have appointed commissions to study the subject and report to the next Legislature. If the experience during the coming two years of those states which have already adopted the measure should prove at all favorable, we can confidently look forward to the enactment of the same legislation by many other states in 1915.

The presumptions and probabilities are all so decisively in favor of the legal minimum wage that the burden of argument is already upon those who stand in opposition. It seems, therefore, better in a brief article like the present one to devote attention to some of the most frequently urged objections.

Some Misconceptions

No intelligent advocate of the minimum wage thinks that it will of itself solve the labor question. It is merely one element in the solution. But it is an indispensable first element. Between one-half and two-thirds of the wage earners of the United States, both male and female, are today compelled to accept less than living wages. Neither labor organizations nor the good will of employers, nor blind economic forces, will bring the remuneration of these workers up to a decent level within one or two generations. This is a proposition which will not be denied by any competent economic student. Hence the upward impulse must be given by

legislation. But a legal minimum wage must be supplemented by a comprehensive scheme of industrial education which will increase the productiveness of low grade workers, and by systematic provisions against unemployment which will take care of those workers who will not be fully protected either by the minimum wage or by vocational training. Now, the State will not adopt either of the latter two measures with sufficient celerity or comprehensiveness until it is forced to do so by the exigencies and consequences of a minimum wage law in operation.

Another misconception is the assumption that the legal minimum wage is to consist of a single flat rate decreed by a State Legislature. No one advocates this except as a partial and temporary expedient, and at a figure so low as to benefit only the lowest paid workers. The nominal and usual method is to establish an impartial commission which is employed to fix minimum rates of wages, varying in different localities within a state according to the varying cost of decent living.

The Project is Not Socialistic

Those who are at a loss for genuine argument — and occasionally a few other misguided persons — tell us that the minimum wage is Socialistic. Apparently their thought is that any new and pronounced extension of state authority to industry must be thus characterized. If this assumption were true it would be equally decisive against the parcels post, government savings banks, workmen's compensation laws, child labor restrictions, and all other forms of labor legislation. All these do things which the State would do under Socialism. Whether a given industrial statute is Socialistic or not may be considered as a question of principle or as a question of practical tendency. Judged by the former standard, the minimum wage is clearly not Socialistic; for it merely regulates, restricts, conditions the wage contract in private employments, whereas under Socialism private employments would be not regulated but abolished. As to the practicable consequences of minimum wage legislation, some persons maintain that these will make Socialism appear more plausible, while others with greater reason hold that if the legislation is effective, it will deprive Socialist agitators of their strongest practical argu-

ment, namely, the wretchedness of the working classes, and that if such legislation is not enacted the movement towards Socialism will increase in momentum and volume.

The Right of the State in the Matter

Closely related to the objection considered last week is that which maintains that the regulation of wages is outside the province of the State. Usually the persons who make this assertion do not take the trouble to support it by positive argument. As a matter of fact, the State has not only a right, but a duty of enacting such legislation. It is bound to protect the natural rights of the individual. In the case of the wage-earner, the claim to a decent living wage is, as Pope Leo XIII declared, a natural right.

When, therefore, the State cannot guard this right by any other means than a minimum wage law, its obligation to pass such a law is clear and urgent — quite as clear and urgent as its duty of protecting the individual's life, limb or property. None of these latter goods are essentially more important to the wage-earner than his livelihood, and his livelihood depends upon his wages.

If the State is unable or unwilling to protect this, it is to that extent a failure.

The Economic Objections

Those who assert that the legal minimum wage is impracticable forget that it is, so far as its economic aspects are concerned, in precisely the same case as though the minimum wage were established by a trade union or by a voluntary action of the employer. Yet there are innumerable instances of the former, and an increasing number of the latter. If the minimum wage set up by these two means has not destroyed industries or injured the workers, there is no reason to suppose that either of these things will occur when the minima are established by legal authority. It is the effect of the minimum, not its cause that has economic significance.

There is, indeed, one economic objection which has some validity when stated with proper restrictions. As commonly formulated, however, it is self-refuting because it proves too much.

It runs substantially thus: A minimum wage that raises the remuneration of the poorest paid workers will increase the cost of production; higher cost of production will necessitate higher prices to the consumer; increased cost to the consumer will be followed by a lessening of the quantity purchased; and the final result will be diminished production and diminished employment. Thus the working class will suffer in unemployment what it gains in wages.

If this argument were sound it would be fatal to every measure for the betterment of labor conditions. Every bit of labor legislation ever enacted, whether for shorter hours, safety devices in factories, the restriction of child labor, or compensation for injured workingmen, increases, or apparently increases, or tends to increase the cost of production, and therefore forges all the other links in the chain of evil consequences enumerated above. Moreover, every gain in wages obtained by any group of workers by any means whatever, sets in motion the same series of bad results. What is gained by the laborers immediately concerned and kept at work is lost by those who are thrown out of employment through the falling off in demand for goods and labor. Hence the argument proves, if it prove anything, that all attempts to better the condition of labor are futile, in as much as they merely shift the burdens from one section of the working class to another. It shows, moreover, that the system of private capital and competitive labor is bankrupt. Verily, the argument proves too much.

It is likewise too simple. It is used only by persons whose view of industrial processes is superficial. The fact of the matter is that there are at least four, instead of only one, sources from which the higher wage outlay required by a minimum wage law can be derived. Let us review them briefly.

Increased Efficiency of Labor

Experience has abundantly shown that the lowest paid labor is not always the cheapest. In many occupations the laborer who receives a wage sufficient to maintain him in normal physical vigor and moral spirits is more profitable to his employer than the laborer whose meagre wages force him to do without the things that are necessary for normal efficiency. It is certain that many

of the factory and department store girls who are now undernourished and under-supplied with other necessaries of life would, if they were paid living wages, make up the difference to their employer in working efficiency. It is not maintained that all workers whose pay was raised by a minimum wage law would increase their efficiency to this extent; but some of them would, and practically all of them would add somewhat to their working output. Hence a great part of the higher wage outlay would be provided by the workers themselves.

Equalization and Scaling Down of Profits

Persons who glibly assert that in the event of a minimum wage law employers would discharge all or the greater part of their employees to whom they are now paying less than the legal minimum, assume that the latter are now getting all that they are worth to their employers. Nothing could be further from the truth. In every important industry the variations in wages paid to the same class of labor are surprisingly large and numerous. There are always some employers who could pay living wages to all their employees and still make normal profits. This was admitted to be true of the Chicago department stores by several of the managers before the O'Hara investigating committee last winter. A legal minimum wage would not compel this more efficient class of employers to raise prices nor to make any important change in the conduct of their business. It probably would force some of the less efficient employers out of business, but this would be a good thing, as it would give more business to those employers who were able to pay living wages without raising prices or discharging laborers. The inefficient employer, like the parasitic industry, has no right to economic existence.

Higher Prices to the Consumer

It is quite probable that not all the increase in wages called for by a minimum wage law would be furnished by the three sources just considered, and that in some industries prices would have to be raised to the consumer. Just how far this would be true no man can tell, or even guess, beforehand. In any case, we must remember that higher prices would not mean a corresponding

diminution in the amount of goods purchased. For many customers — the more wealthy — would continue to buy as much as formerly; and many of those wage earners whose pay had been raised by the legal minimum wage would increase the amount of their purchases. So far as economic experience and principles throw light on this matter, they justify the statement that even in those industries where the price of the product had been raised, the total demand for goods might be increased rather than diminished. Consequently, there might be no lessening of employment.

Let us assume, however, for it is possible, that there would occur a considerable diminution of employment. This would be a hardship, of course, but it would be more than offset by the benefits to the vast numbers of workers who were receiving living wages in consequence of the law. It is better that a small minority of the laboring class should be thrown out of work than that all should continue employed only on condition that the majority be paid wages insufficient for decent living. If the minimum wage should result in any considerable amount of unemployment, the State would be compelled to provide a systematic and adequate solution of the problem. It would also be forced to hasten the provision for industrial training. These two possible by-products of a minimum wage law would be of themselves sufficient to justify its enactment. The policy of taking care of the inefficient workers by employing them at less than living wages, and thus dragging down the standard of life of the majority of the laboring class, is neither humane nor scientific. It must give way to the policy of maintaining a minimum standard of decent remuneration and living for all who are employed, and of providing for the inefficient in some other way.

Experience Favorable

The legal minimum wage has been tested in only two countries, England and Australia. In the former it has been in operation only three years, but it has already doubled the wages of the helpless women workers in three of the trades to which it has been applied (see the "Catholic Social Year Book for 1913"). The law was first applied to a few trades in Australia (in the State of

Victoria) seventeen years ago. Since that date it has been steadily extended to other trades and other states with increasing success and increasing public approval. The latest authoritative observer, Professor M. B. Hammond, of Ohio University, who studied the operation of the law on the ground about a year ago, writes of it as follows: "Employers and employees there differ more or less in their views as to what is the best machinery for bringing the legal minimum wage into existence and securing its enforcement. Differences of opinion exist also as to the range of industries to which it should be applied — but few persons could be found today, either in Australia or New Zealand, who would challenge the statement that the principle of a legal minimum wage has been accepted as a permanent policy in the industrial legislation of that portion of the world." ("The American Economic Review," June, 1913, p. 259.)

Is there any rational ground for assuming that this kind of legislation would be less successful in the United States?

STATEMENT OF HENRY R. SEAGER

The sweating system is a comprehensive term for describing any situation in which the worker is at such a disadvantage that he is forced to work long hours under unsanitary conditions for starvation wages. It shows itself at its worst in this country in connection with home work in our large cities. New York City is the seat of the clothing industry. In some branches of that industry the workers enjoy fairly good wages and work only a reasonable number of hours a day, but in others, particularly branches carried on by home workers, under the contract system, conditions are deplorable. This home work is undertaken for the most part by women and children. The pieces or partially finished garments are taken from the contractor with the understanding that the work will be done at so much a garment. He is a shrewd, ambitious and often relentless bargainer with full knowledge of the market conditions. On the other hand the women who undertake to do the work with the help of their children know little beyond their own necessities and how much work

they can turn out in a given time. They have no standards or organization to oppose to the contractors' desire to cut the rate. The result, as might be expected, is that wages are forced below even a bare living level. Only in the busiest seasons and for the most skilled workers is it possible for a family in New York to support itself in decency by home work. Ordinarily the wages earned by women and children working with the desperation born of necessity have to be supplemented by earnings of other members of the family or by charitable relief if the family is to be held together and preserved from gradual starvation.

The worst evil of the sweating system is low wages. Though forced to the lowest point in connection with home work, low wages pursue women and children wherever they are employed. The tenement home worker in New York finds it difficult to make much over fifty cents a day, and children of course make considerably less. The girl employed in store and factory finds it difficult to secure over one dollar a day. Dr. Woolston in the evidence which he laid before the Factory Investigating Commission showed that of 15,000 girls in industrial lines in New York whose wages were studied, 8,000 received $6.50 a week or less even in the busy season. An earlier investigation showed that the majority of girls and women employed in New York department stores received $7.00 a week or less.

Since low wages are the heart of the evil any remedy to be effective must address itself directly to the wage problem. This is what the minimum wage does. It aims to cure the evil at its source. Any other remedy for the sweating system is at best a palliative.

The first country to conceive the bold project of raising wages by making it unlawful to pay wages below a certain level was Victoria, Australia. Gold discoveries had caused a too rapid expansion of the country's population in the eighties. In the early nineties disappointed gold seekers and their families drifted toward Melbourne, and became victims of a rapidly growing sweating system. After long discussion a wage board act was passed in 1896, applying to the worst sweated trades, clothing, boots and shoes, furniture and baking. The plan of this act was simple. Wage-boards were to be organized in each of these trades

composed of an equal number of representatives (two to five from each side) of the employers and the employees and they were to fix the minimum wages and the maximum hours that should be permitted in the trade. After thirty days their determinations were to have the binding force of law. Piece rates as well as day rates were to be fixed, and in determining the latter the board was to be guided by the output of a worker of average skill and speed in a normal day. The prescribed minimum day wage was thus to be divided by the number of pieces such worker could turn out and the quotient was to be the minimum legal piece rate for that particular task.

Notwithstanding some reluctance on the part of employers, the boards were organized early in 1897 and their determinations reached before the end of that year. That of the Board on the clothing trade was most difficult because here as with us home work on the piece wage basis was specially prevalent. The minima fixed by this Board were 7s. 6d. per day ($1.87) for men and 3s. 4d. per day (83c.) for women, with lower rates for apprentices and learners. Appended to these day rates were carefully worked out piece rates numbering thousands of items, which were equally binding.

The enforcement of these piece rates was the most important feature of the new system. This meant that the pay of home workers should no longer be left to the relentless competition of the sweating contractors, but should be adjusted to the level made the minimum for shop and factory employees. This enforcement encountered many obstacles. Contractors tried to evade it by substituting for the wage contract a sales contract, that is, instead of giving out pieces to be made up into garments at agreed rates, they nominally sold the pieces on credit to the sweated worker and agreed at the same time to buy back the garments when finished at somewhat higher prices. This was prevented by making every contract which was equivalent to a wage contract subject to the same limitations as wage contracts. Also the workers were required to pay premiums for the privilege of securing work at the legal rates. This was likewise held to be in violation of the law. In spite of difficulties persistent efforts on the part of the government inspectors, backed by the better class of employers whose self-

interest made them eager to see all their competitors pay as high wages as they themselves were required to pay, made enforcement more and more satisfactory. Within a few months the system began to have a marked tendency to put an end to home work, and to transfer industry to well organized shops and factories where the workers were assisted by power machinery and efficient organization to earn the wages which employers must in any case pay.

Introduced at first for the four worst sweated industries only, the system was gradually extended to other industries. Notwithstanding a change of government in 1902 the system, after a few months' interval, due to disagreement as to certain amendments, was continued in operation. In 1905 it was made a permanent policy of Victoria and a Court of Appeals was provided consisting of a judge of the Supreme Court assisted by assessors representing the two sides to pass on appeals from the decisions of the boards. By this means greater uniformity has been given to the wage rates established for different industries.

Since 1905 the system has been extended to trade after trade until at the end of last year (1913) 134 different trades embracing all of the important industries of the state except farming, domestic service and government employments were brought under it. To-day the regulation of minimum wages and maximum hours by wage-boards may thus be said to be the accepted system in Victoria. It has also been introduced in one form or another into the other states of Australia, which have not in its stead the New Zealand system of regulation of wages and hours through compulsory arbitration.

This is in itself sufficient proof of the success of the system. The results that may be credited to it are:

(1) Standardization of wages and hours, in a way that protects the weak and ignorant from the exploitation by unscrupulous employers of which they were previously the victims. This has gone so far that it is generally agreed that since the system was introduced all the worst features of the sweating system have disappeared. This standardization has not meant that the minimum wages fixed have become the usual wages. This point was investigated in 1902 by the Labor Department. In the clothing industry it was found that while the minimum fixed by the Board

for men was 45s. ($11.25) a week, the average actually paid was 53s. 6d. or $2 a week more. The minimum for women was 36s. a week, while the average was 42s. 3d. or $1.50 a week more. Even the minimum wages prescribed by the Board are subject to exceptions. When it can be shown that a worker is too old or infirm or too slow owing to some physical or mental disability to be able to earn the minimum and yet would be better off if allowed to earn something, such worker may be licensed to work for less. The proportion of these sub-normal workers that any employer may have on his payroll is limited so that there is no danger that their competition will lower the wages of normal workers.

(2) Education of the public as to actual industrial conditions, and the development of a more enlightened and sympathetic attitude toward other reform proposals.

(3) The creation of more friendly relations between employers and employees and the lessening of strikes and other symptoms of industrial friction. By serving on the wage-boards both employers and employees acquire an understanding of the wage-problem in all its bearings that makes them much more reasonable in their demands and expectations.

So long as this novel experiment was confined to Australasia, it seemed too far off and too little related to the more complex conditions of the larger industrial communities of Europe and America to be of much significance. Even now when it affects about three-fourths of the industrial population of Victoria, it applies to only about 150,000 wage earners. With only one large city and a predominantly agricultural population, Victoria would clearly be a dangerous guide for a state like New York with more people in its large cities than are found in all Australia taken together.

It was not until the same policy, with unimportant modifications, was adopted by the United Kingdom in 1909 that it began to attract the serious attention of American students and legislators. The English act, like its Victorian model, applied at the outset to four trades only — (1) the clothing industry; (2) certain branches of the lace industry; (3) the paper box industry; and (4) certain branches of the chain industry in which women

blacksmiths were predominantly employed. General supervision of the system is given to the Board of Trade (corresponding to one of our departments of labor). The boards are composed not only of representatives of the employers and employees, but of the public, and from these last the chairman and secretary of the board are named. The boards are required to fix minimum wages, both time and piece, and maximum hours, for different classes of employees, including men. If no piece wage has been fixed for a given task, the burden of proof that the piece rate actually paid conforms fairly to the standard day wage rests on the employer. As in Victoria the board may grant licenses to aged, infirm or otherwise subnormal workers to receive less than the standard wages but in no case may the employer draw more than one-fifth of his employees from this subnormal class. The wage determined upon does not become binding until after three months or until formally ratified by the Board of Trade.

Boards were organized as rapidly as possible in the four trades designated in the act. The worst sweated of the four was chain making. An investigation made in 1907 showed that adult women in this industry were earning only from four to seven shillings ($1.00 to $1.75) a week and that the average was only five shillings ($1.25) a week. The board decided on a minimum rate of 2½d. or 5 cents an hour — a rate that seems to us pitifully low. Nevertheless it represented an advance in women's wages of 60 per cent. and was objected to by employers as likely to drive the industry out of the country. As a matter of fact it had no such effect and there was every prospect that a higher minimum would be fixed when the European war broke out and made any change during the conflict unwise. For the lace-making trade a minimum of 2¾d. (5½ cents) an hour was fixed for women workers and for box making, which is carried on entirely in cities where the cost of living is higher, of 3d. (6 cents). The worst aspect of paper-box making was home work and to lessen it, so far as possible, the board coupled with the 3d. minimum the provision that the lower rate of pay permitted for learners should be paid only to learners in shops and factories. This means that every home-worker must be paid the equivalent of the six-cents-an-hour rate. This seems little enough, but contrasted with the

rate of three cents an hour, the amount which skilled home workers were found to be receiving in 1907, it represents a substantial gain.

As in Victoria, so in the United Kingdom, this system of having minimum wages determined by wage-boards as a means of preventing the sweating system, was soon extended to non-sweated industry. In 1912 the coal mines of the country joined together in a mighty strike to have 5s. a day for men and 2s. a day for boys made the minimum wages for coal miners throughout the whole country. Some of the mine owners were unwilling to concede this demand. As the coal famine became more serious and even factories and railroads were threatened with lack of this indispensable commodity, the government felt constrained to intervene. Unwilling to establish by statute the minima demanded by the men, the government passed an act creating wage-boards for coal mines in the different districts with the same powers as the wage-boards previously provided for the sweated industries. Thus coal mining, the most important industry of the country, and one in which the law prohibits the employment of women and girls, is brought under the control of wage-boards.

The British experiment is not yet four years old, but already its success may be confidently asserted. It is accomplishing for the United Kingdom on a larger scale and in the face of much greater difficulties the same results that had been accomplished in Australia. There is there no thought of abolishing the system. Instead the Board of Trade has already taken steps to extend it to four other industries.

The introduction of wage-boards in the United Kingdom helped to make the proposal a practical issue in the United States. In 1911 Massachusetts created a Commission on Minimum Wage Boards which reported in 1912 in favor of the introduction of the system in that State. A law creating a permanent Minimum Wage Commission was passed June 4th, of that year, with power to organize wage boards for industries where investigation showed that the wages paid were insufficient to enable "a substantial number of female employees * * * to supply the necessary cost of living and maintain the worker in health."

Few persons who are not following the matter closely realize

how rapidly this reform is sweeping over the United States. In 1913 eight States, California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington and Wisconsin passed minimum wage laws. They were all in the middle or far West, but that Massachusetts' example was also attracting attention in the east was shown by the action of Connecticut in directing its Commissioner of Labor to continue an investigation of the condition of women and child wage-earners in the State already begun and of New York in continuing its Factory Investigating Commission for the express purpose of studying the subject. Michigan and Indiana also created Commissions to study the condition of women wage-earners in those States.

This year this legislation has begun to bear fruit in valuable reports on the wages received by women and children in different industries and in actual wage determinations.

The usual plan adopted by the nine states which have legislated is to create a State Wage Commission with power to organize wage-boards in industries where they are found to be needed and to give legal force to their determinations as to the minimum wages that should be paid. Utah has adopted the more direct if less scientific plan of providing by law that the minimum wage for adult and experienced women workers in that State shall be $1.25 a day, for adult learners, whose apprenticeship may not last more than one year, 90 cents, and for children under eighteen, 75 cents. Colorado vests the Commission itself with power to fix the minima without the formality of a determination by a wage board.

Wage determinations have been reached in Massachusetts, Oregon and Minnesota, and these exhibit the tendencies of the system even if not yet its full effects. Oregon was the first State to act. Through successive orders it has fixed the minimum rate of pay for adult experienced women workers in the State at $8.25 a week and the maximum number of hours at 54. For girls between the ages of 16 and 18 the minimum wage has been put at $1 a day, and the maximum hours at 8 hours and 20 minutes a day, to conclude not later than 6 P. M., and at 50 hours a week. Where girls are employed side by side with adult women permitted to work nine hours a day, their work day may be made nine hours by

special permit, provided the Commission is convinced that the work is of such a character as not to endanger their health. For Portland higher minima are fixed; for adult experienced women workers in manufacturing establishments $8.64 a week, and in mercantile establishments (where the expense for dress is heavier) $9.25 a week. These determinations were based on careful studies of the cost of living and in each case are accompanied by the declaration " any lesser amount being hereby declared inadequate to supply the necessary cost of living to such workers and to maintain them in health."

The constitutionality of the Oregon law was at once questioned, but on March 17, 1914, in the case of Stettler vs. Industrial Welfare Commission, the act was upheld by the Oregon Supreme Court as a reasonable exercise of the police power for the protection of the health and morals of the women and girls of the State. This case will soon be argued on appeal before the Supreme Court of the United States.

The first industry to be brought under the system in Massachusetts was brushmaking. As in Oregon action was preceded by a careful study of the cost of living. For Boston the minimum for a girl or woman not living at home was found to be between $8.00 and $9.00 a week — $8.71 according to a first report, $8.28 according to a second. On the basis of these estimates the minimum rate for adult experienced brush workers was fixed at 15½ cents an hour, or $7.75 for a full week's work of 50 hours. Learners or apprentices may be employed for not longer than one year at 65 per cent. of this rate. If a piece rate in any case affords less than this legal time rate, the worker may claim the time rate instead and refusal is a violation of the decree. This rate is proposed as a compromise with the clear intimation that the higher rate of 18 cents an hour necessary to give a wage-earning woman $9.00 a week will probably be fixed at a later period. Careful investigations have been made of the wages paid in laundries and candy factories in Massachusetts, but no determination has yet been reached as to minimum wages which should prevail in these industries.

The Minnesota Commission consisting of the Commissioner of Labor, an employer of women and a woman who serves as secre-

tary has just made its first determinations. Advisory boards were organized in the Twin Cities, Minneapolis and St. Paul, for manufacturing and mercantile industries, respectively, and a single board for both together in Duluth. These boards arrived at strikingly similar conclusions as to what the maintenance of a decent standard of living for a single woman required. The two boards in the Twin Cities fixed on $8.65 and $8.75 as the necessary minimum, and the Duluth Board on $8.50. The Commission, from which the employer member had meantime resigned, established $9.00 a week as the minimum wage for adult experienced women workers in mercantile establishments, telephone and telegraph companies, and office work in cities of the first class, $8.50 in cities of the second class and $8.00 in all other parts of the State. Minima for manufacturing establishments, laundries, hotels and restaurants were made 25 cents lower, except that $8.00 was retained as the minimum for all parts of the State outside of the large cities. This determination was hardly arrived at when its enforcement was held up by an injunction based on the contention that the act was unconstitutional.

Foreseeing this difficulty Ohio was farsighted enough to insert a minimum wage provision into its new constitution of 1913. If we desire similar legislation in this State we must bestir ourselves to get a similar provision in our new constitution.

Since we cannot yet judge from American experience the effects of this new method of dealing with the sweating system, what conclusions are suggested by an analysis of the economics of the matter? Can a community by merely decreeing through a board or commission that wages as high or higher than the sum found to be necessary to maintain a decent standard shall henceforth be paid to its women workers really achieve this desirable result? And if it can do so, will the plan not entail other hardships upon women workers worse than the disease which it aims to cure?

As to the first point general reasoning and the experience of Australia and England justify a confident "yes." If the community stands behind the policy and provides the necessary machinery for enforcement a decent living wage can be secured

for women workers. But the policy clearly involves serious readjustments. Employers will not pay such wages to women and girls who do not earn it. A selective process will be set up and those who are so stupid and inefficient as not to be worth the minimum will be discharged. Would many be discharged in a city like New York if say an $8.00 minimum were imposed for experienced workers over eighteen years of age in all our industries? It would be a bold man who would attempt to estimate the number. My own opinion is that the number turned off would not be large. Dr. Woolston has estimated that the establishment of a $9.00 minimum for experienced department store girls and women would add at the outside only one-third of one per cent. to the selling price of goods. Even if the whole expense were passed on to consumers the burden would not, therefore, be very heavy. It is doubtful, if by itself, it would close a single store, though by putting a higher premium on efficient workers it probably would cause some curtailing of the working force. Better fed, better housed, more free from worry, the employees would almost certainly be more efficient workers than they now are. Fewer could do the same work that now employs a larger number. Some displacement of the less skillful might also be expected in manufacturing industries. Dr. Woolston has estimated that to establish the same minimum wage in candy factories might add one-fourth of a cent a pound to the cost of producing candy. The consumption of candy would be little influenced by such a change as this. Fewer employees would come about mainly from the greater efficiency of those who were retained.

But displacement of the stupid and inefficient even if they were not found to be very numerous would be a hardship for them. A starvation wage seems to the person who gets it better than no wage at all.

But would not the pressure that the presence of this class of incapables in the community would put on organized society to bestir itself in their behalf in the end prove advantageous to them as well as to the more capable who are retained in industry at higher wages? I am strongly of that opinion. I can think of nothing that would give a greater stimulus to all our plans of

social betterment than a policy that would mark out clearly as unemployable because incapable of earning a decent living those that we now allow to struggle along on the verge of destitution. These unfortunates are partly supported now at the expense of others. Other members of the family contribute something, charity contributes something, prostitution contributes something, and some are slowly losing vitality and such efficiency as they have left because they are constantly overworked and underpaid. The industries that employ them have been characterized accurately as parasitic industries. They do not pay their way, and consumers who get goods cheaper in consequence are living at the expense of the sweated workers or of those who supplement their earnings to save them from the disastrous consequences of earning less than suffices for decent living.

If we had to face squarely this problem we should be much more interested in plans for industrial training and vocational guidance. We should feel more concern for assisting wage-earners who are able to earn a living to maintain their independence by taking steps to lessen unemployment and to provide against it and against losses through accidents, through illness and through old age through wise plans of social insurance.

In my judgment this greater concern over other aspects of the wage-earner's problem would much more than counterbalance any hardships that adoption of minimum wages might entail. Even more certain are the direct benefits which Victoria has already experienced. Through it we might hope to standarize wages and hours in all industries and thus rescue the victims of the sweating system and put an end to some of the worst forms of child labor. Through it we might expect to bring about more cordial and sympathetic relations between employers and employees, based on better understanding and on co-operation in a joint-effort to mitigate the worst phases of our present wage system — wages below the living level.

STATEMENT OF N. I. STONE

Scarcely more than a year has passed since the adoption of the first minimum wage law in one eastern and eight western states

of the Union, so that the country is practically without any experience gained under American conditions. Under the circumstances there is a great deal of opposition and doubt in the minds of many called upon to deal with the subject as to whether the legislation is desirable and if so, whether its enactment is not fraught with greater evils than the one it is designed to remedy.

Painstaking and dispassionate investigations by the New York State Factory Investigating Commission conducted in a number of industries in which information as to wages and hours of labor was obtained from the employers' own payrolls have disclosed the fact that thousands of workers are receiving wages far below the minimum necessary to maintain a self-supporting woman, not to speak of persons with families to support.

In its report on Minimum Wage Boards the Massachusetts Minimum Wage Commission has aptly applied the term "parasitic" to such industries.

Says the Commission:

> "Wherever the wages of ..... a woman are less than the cost of living and the reasonable provision for maintaining the worker in health, the industry employing her is in receipt of the working energy of a human being at less than its cost, and to that extent is parasitic. The balance must be made up in some way. It is generally paid by the industry employing the father; it is sometimes paid in part by the future inefficiency of the worker herself and by her children, and perhaps in part ultimately by charity and the State. The commission believes that our industries in general are not dependent upon such underpaid labor and that by gradual adjustment of wage scales the present unfortunate condition in a number of employments could be improved without injury to the employing interests. If an industry is permanently dependent for its existence on underpaid labor, its value to the Commonwealth is questionable."[1]

The question of a minimum wage thus narrows down to the elimination of parasitic industries or rather parasitic establish-

[1] Report of Mass. Comm. on Minimum Wage Boards, 1912, p. 17.

ments, for in all such industries manufacturers will be found who pay a living wage to their workers in spite of the presence of parasitic competitors. This is a point of utmost importance, for upon the question of the scope to be assigned to minimum wage legislation will depend the attitude of many a person, particularly organizations of labor and of employers toward the proposed legislation. Australia and New Zealand, pioneers in the field of minimum wage legislation, present two distinct conceptions of a minimum wage. A differentiation between the two is necessary before any arguments in favor of and against wage legislation can be considered.

The determination of a minimum wage in New Zealand is part and parcel of its arbitration machinery. In the settlement of labor disputes its boards of arbitration are called upon to decide what shall be the wages of workers of various occupations in a given industry affected by the dispute. The wages thus awarded, like most union wage scales, are in the nature of minimum wages, the individual worker of more than average skill being free to bargain for a higher wage than that awarded by the board, and the employer being willing to pay a higher wage for higher skill or speed.

As has been well pointed out by Dr. Clark in his report on Labor Conditions in Australia,[2] a minimum wage fixed by an Arbitration Court in New Zealand in settling or preventing a strike is meant to be a fair wage for a competent skilled worker and of course tends, and rightly so, to be fixed at a point above the minimum amount necessary for a mere subsistence. In determining upon such a wage the Arbitration Court takes into account on the one hand the prevailing highest and lowest wages in the particular industry or occupation and the skill required; on the other hand, it considers not only the amount necessary to maintain life and support a family, but also to enjoy a certain degree of comfort and to be able to provide for a rainy day and for old age.

Not so with the minimum wage established by the minimum wage boards of Victoria and still less of Great Britain or Massachusetts. Here the conception of a minimum wage is in closer

[2] Victor S. Clark, Labor Conditions in Australia, Bulletin of the Bureau of Labor, No. 56, p. 61.

agreement with the meaning its term implies. The British law, for instance, as well as that of Victoria, was expressly meant to apply to the "sweated trades," trades known for their practice of paying wages insufficient to maintain life without outside assistance. Its object is not to adjust the wages of all of the workers in an industry who threaten a strike or have actually struck for higher wages, but to extend the protecting arm of the State over its exceptionally weak wards, who, unable to fight for their own interest, find themselves submerged in the industrial whirl, unable to rise to the surface by their own effort. A minimum wage board operating under such a law takes little, if any, cognizance of the skill of the worker and its fair market value and is guided chiefly, if not solely, by considerations of the minimum amount necessary to enable the workers to procure food and clothing and other necessities in order to maintain themselves in good health and to be able to maintain their self-respect among their fellows under the prevailing standard of life. In Great Britain and Australia, the protection of the law extends to men as well as to women, and the minimum must be made sufficiently high to enable the worker not only to maintain himself, but also to support the dependent members of his family. In the nine states of the United States the law is invariably made to apply to women and minors only, which reduces the minimum wage to the amount necessary for the maintenance of the worker alone.

It is not the object of this paper to review the many arguments for and against minimum wage legislation, which are to be found in the writings of Professor Henry R. Seager, Florence Kelley, Arthur N. Holcombe, Sidney Webb, and others.[3] In this paper attention will be directed to certain aspects of the wage problem upon which information gathered by the writer at first hand in the course of investigations conducted first for the United States Tariff Board and later for the Wage Scale Board of the Dress and Waist Industry of New York City may throw additional light.

One of the objections raised against the minimum wage law

[3] References to the writings of these and other writers on this subject will be found in the bibliographies prepared by Irene Osgood Andrews and Dr. C. C. Williamson, which appear in the third report of the N. Y. State Factory Investigating Commission.

is the injurious effect it may have upon industries which may not be able to advance prices, owing to competition from other states or for other reasons. The answer to this objection usually made by advocates of minimum wage legislation is that an industry which can not afford to pay its workers a minimum wage necessary for their existence is maintained at the expense of other industries or of society as a whole; in other words, it is a parasitic industry and, as such, has no right to existence. While this answer may be quite to the point, it leaves out of account another aspect of the wage problem which has not received due emphasis in the discussions of the legal minimum wage which has been going on in this country for the last few years, and that is, the relation between wages and the cost of production.

The argument in question against the minimum wage law rests on the assumption that any increase in wages leads to an equal increase in the cost of production which must find its counterpart in an increase of prices or lead to a downfall of the industry. Incidentally, it may be noted that all such arguments are based on the assumption that the profits of the employer are at an irreducible minimum, so that any reduction in that item is tantamount to a death sentence for the industry. That in a great many industries the employers, whether individuals or corporations, could stand a moderate reduction of their profits for the benefit of those of their employes who are receiving wages admittedly below the minimum necessary to sustain life, goes without question. However, that such a sacrifice is hardly ever necessary is the point which, it is hoped, will be made clear by what follows.

The assumption that an increase of wages involves an equal increase in the cost of production rests upon the theory that the cost of production is something rigidly fixed by the wages paid for labor and the price of materials. Given a certain rate of wages and a certain price of materials, the cost of production is merely the sum of these two which will not change as long as the two component elements of wages and materials remain the same; likewise, any increase or reduction in either of these elements causes a corresponding rise or fall in the cost of production, and ultimately in the price of the commodity.

That this theory is utterly at variance with actual facts; that a relatively high cost of production is the concomitant evil of "cheap" labor, by which is usually meant low paid labor; that highly remunerated labor is, as a rule, the cheapest labor in the end, startling as it may seem when thus baldly stated, is the conclusion to which the investigations of the United States Tariff Board into the cost of production irresistably lead. Finally, it may be said to form the cornerstone of the new science of efficiency, the true teachings of which are as yet much misunderstood both by captains of industry and by leaders of organized labor.

The United States Tariff Board made an exhaustive study of the cost of production in the paper, woolen and cotton industries. The reason for the creation of the Tariff Board and the object of its investigations was to find the cost of production of various commodities as compared with that in foreign countries, in order to furnish Congress with a measure of protection for American industries against the competition of the cheaper labor of Europe. In every instance, the Tariff Board found that there was no such thing as *a* cost of production; that costs varied not only in the same industry and in the same city, but in the same plant; last, but not least, that neither the total cost, nor the labor cost varied in a direct ratio with the rate of wages paid.

Highly Paid Men Working Eight Hours Per Day Are Cheaper Than Lower Paid Men Working Twelve Hours a Day

Thus in the paper and pulp industry it was found that the labor cost of making a ton of news-print paper in the United States varied from $2.19 to $7.26 per ton.[4] The most remarkable fact about it was that the mills paying the lowest wages and having a twelve hour day had a higher labor cost per ton of paper than those paying the highest rates of wages and having an eight hour day.

The solution of this puzzle lies in the chapter of the report dealing with the "Efficiency of Equipment in Paper Mills." Mills were found to vary greatly in this respect. Some had

[4] U. S. Tariff Board Report on Pulp and News Print Paper Industry, 1911, p. 39.

machinery thirty years old, while others boasted of machines with latest improvements. The older machines had a capacity of 17 tons in 24 hours, while the newer machines could produce 50 tons. The result was that the machine cost of labor per ton of paper was $1.84 on the old machine and only 82 cents with the new, the same rate of wages being paid to the machine tenders in each case.[5]

But important as the machine equipment is in determining the efficiency of labor, the human equation is subject to no less variation under certain conditions.

When the agitation for the removal of the import duty on news-print paper resulted in an inquiry by a special committee of Congress, a representative of one of the largest paper mill companies in the country pointed to the fact that they had recently reduced the hours of labor from twelve to eight, without reducing the weekly rate of wages, with the consequent increase of 33 per cent. in their labor cost. The figures secured by the Tariff Board from the books of several mills, including those to which reference was made before the Committee of Congress, showed a reduction in the labor cost per ton of paper from $4.35 to $3.73 in 1909 under the eight hour system. In other words, an increase in the hourly rate of wages to the extent of 33 per cent. not only failed to result in a corresponding increase in the cost of labor per ton of paper, but, strange as it may seem, was accompanied by an actual reduction in cost. While the figures of $4.35 in 1908 happened to be the highest in ten years, there was not a single year in that decade under the twelve hour system which showed as low a cost as in 1909, the first year under the eight hour system.[6] On the other hand, when it is remembered that during a large part of the year 1909 the mills were idle, owing to the strike for shorter hours and that costs are usually above normal when a plant is started up after a long period of idleness, there is every reason to believe that the labor cost was still further reduced after 1909.

Yet it can not be said that there was a radical change in the

[5] Ibid., p. 52.
[6] U. S. Tariff Board Report on Pulp and News-Print Paper Industry, p. 79.

equipment of the mills to which these figures relate, immediately following the introduction of the eight hour shift. The change was due largely to the increase of the personal efficiency of the workers under the shorter day. The duties of a machine tender in a paper mill consist chiefly in watching the thin sheet of paper as it first appears on the large cylinder of the machine. A slight twist at the outset will result in reams of paper being torn on the cylinder, with a mad rush of all the tenders in an endeavor to set things right and will frequently require a complete stoppage of the machine, all of which greatly increases the cost of production. The fatigue caused by twelve hours of such nervous and physical strain resulted in a much greater proportion of damaged paper and interruption of work than was the case after the adoption of the eight hour day. With the hours of labor cut down from twelve to eight, the machine tender was relieved from duty during the last four hours, when he used to be tired out most and when his alertness and general efficiency were at their lowest ebb. The change in working hours not only enabled him to leave the mill less fatigued than formerly, but with the resting period increased by four hours a day, the recuperation was more thorough, so that his alertness of mind and body was greater upon his return to work than it used to be even during the first eight hours under the old system. With his mind more alert, he was able to detect in time imperfections which formerly escaped his attention. This resulted in so great an increase in the relative time the machines were in actual operation (free from breakdowns and stoppages), accompanied by a reduction in the quantity of damaged paper on which labor had been expended in the preceding stages of production and therefore wasted, that the labor cost of production of paper declined in spite of the increase in the hourly rate of wages.

American Weaver at $1.60 *Per Day Cheaper Than Japanese Weaver at* 18.5 *Cents*

Even more striking proved many of the facts disclosed by the investigation of the cotton industry. In spite of higher wages prevailing in the United States, as compared with England, and

the longer start which the English cotton industry has had over the American, it was found that many varieties of cotton goods, including some of the finest women's dress goods, were being sold at lower prices in the United States than in England[7] and exported to Canada in competition with British goods in spite of the preferential tariff in favor of England which put imports from the United States at a disadvantage.[8] That American cotton goods compete with English in China and South America was known before the Tariff Board had made its investigation. But fear was expressed of the coming menace of Japanese competition with its 15 cents-a-day-weavers. The Tariff Board, therefore, extended its investigation to Japan and figures obtained direct from the books of leading Japanese mills compared with similar data for corresponding mills in the United States led to the startling revelation that with the superior American machinery and superior personal efficiency of American labor the American weaver receiving $1.60 per day was cheaper than the Japanese weaver at 18.5 cents per day.[9]

Poorly Paid Labor in the Woolen Industry Dearer Than Higher Paid Labor

A study of labor efficiency in the various processes of wool manufacture made by the Tariff Board showed that almost invariably the mills paying higher rates of wages per hour produced goods at a lower cost than their competitors paying lower wages. A brief summary of the findings of the board with reference to that industry made elsewhere by the writer,[10] will make this clear.

Thus, in wool scouring the lowest average wages paid to machine operatives in the thirty mills examined was found to be 12.16 cents per hour, and the highest 17.79.[11] Yet the low-wage mill showed a labor cost of twenty-one cents per hundred pounds of wool, while the high-wage mill had a cost of only fifteen cents. One-half of the difference was accounted for by the fact that the

[7] U. S. Tariff Board Report on Cotton Manufactures, pp. 563–565.
[8] Ibid., pp. 571–575.
[9] Ibid., p. 12. Weavers wage bill, table 162, p. 526.
[10] Schedule K, Century Magazine, May, 1913, p. 118.
[11] Tariff Board Report on Wool and Manufactures of Wool, p. 1022.

low-wage mill paid nine cents per hundred pounds for supervisory labor, such as foremen, etc., while the high-wage mill paid only six cents. Apparently well-paid labor needs less driving and supervising than low-paid labor.

In the carding department of seventeen worsted mills the mill paying its machine operatives an average of 13.18 cents per hour had a machine labor cost of four cents per hundred pounds, while the mill paying its machine operatives only 11.86 cents per hour had a cost of twenty-five cents per hundred pounds. This was due largely to the fact that the lower-cost, high-wage mill had machinery enabling every operator to turn out more than 326 pounds per hour, while the high-cost, low-wage mill was turning out less than forty-eight pounds per hour.[12]

The same tendency was observed in the carding departments of twenty-six woolen mills. The mill with the highest machine output per man per hour, namely 57.7 pounds, had a machinery labor cost of twenty-three cents per hundred pounds, while the mill with a machine output of only six pounds per operative per hour had a cost of $1.64 per hundred pounds. Yet this mill, with a cost seven times higher than the other, paid its operatives only 9.86 cents per hour, as against 13.09 cents paid by its more successful competitor.[13]

These examples could be repeated for every department of woolen and worsted mills, but will suffice to illustrate the point that higher wages do not necessarily mean higher costs. They show that mill efficiency depends more on a liberal use of the most improved machinery than on low wages. Thoughtful planning in arranging the machinery to save unnecessary steps to the employees, careful buying of raw materials, the efficient organization and utilization of the labor force in the mill, systematic watching of the thousands of details, each affecting the cost of manufacture, will reduce costs to an astonishing degree.

Herein lies the explanation of the fact that with indisputably higher wages, the exports of manufactured goods from the United States are increasing by leaps and bounds, competing in the world's markets with the "cheaper" labor of Europe and Asia. What the

[12] Ibid, p. 1024.
[13] Ibid, p. 1026.

Tariff Board reports have shown in detail for the three industries mentioned, is shown by the supreme test of practical success for a multitude of industries by the following encyclopedic list of American goods offered "abroad for sale in open competition with Germany and Great Britain" which Secretary Redfield picked at random from one export journal:

"Ironmongery, fine tools, bicycles, sporting goods, lamps, razors, firearms, carriage maker's supplies, sanitary goods, lighting systems, dry goods, men's furnishing goods, boots and shoes, corsets, hats, caps, textiles, clothing, women's furnishings, office furniture, office devices, stationery, typewriters, filing cabinets, printers' supplies, paper, machine tools, boilers, lubricants, electrical material, valves, wood-working machinery, belting, shafting, pulleys, packing, furniture, kitchenware and agricultural implements."[14]

Higher Wages a Stimulus to Higher Efficiency

So much for the efficiency of the management. It may be said that there need not be any relation between the wages of the help in the factory and the efficiency of the management at the head of the mill. While there seems to be no necessary connection between the two, economic literature is full of references to the fact that successful strikes resulting in an appreciable increase of wages or reduction of hours have been followed by the introduction of new machinery or other labor saving devices to offset the increased cost. All things remaining equal, an increase of wages must necessarily lead to an increase in the cost of production. The increased cost, threatening a diminution of profits, acts as a powerful stimulus with the owner or manager of a plant who is anxious to find means of reducing the increased cost, where he was satisfied before to plod along in the established rut.

Without attempting to extend the limits of this paper with numerous instances of this kind, with which the industrial history of every advanced country abounds,[15] it is sufficient to refer to the general experience of industrial countries. A general survey of

[14] Wm. C. Redfield. The New Industrial Day. A book for men who employ men. 1912, p. 88.

[15] For interesting illustrations on this point see Sidney Webb, The Economic Theory of a Legal Minimum Wage. Journal of Pol. Economy, 1912, pp. 973–998.

countries, like the United States, England, France, Germany, Russia, India, China, will show that the extent of labor saving machinery and general efficiency of industrial organization in these countries rises as we pass along an ascending scale of wages from country to country and from period to period in the same country. For the tendency of human nature to follow the path of least resistance is the same the world over; owners of manufacturing plants being no exception to the rule, are satisfied to follow established methods and inherited tradition until a change beyond their control, such as a sudden increase of wages, compels them to seek compensating advantages in more efficient methods.

But not alone the management experiences the quickening effect of higher wages. The increase in the personal efficiency of the worker, manifested in an increased capacity for productive exertion, even without the introduction of more efficient methods of production, is another inevitable consequence. The experience of the paper mill industry upon the substitution of the eight-hour for the twelve-hour labor day for its skilled workers, cited above, is but one instance of what has been practically the universal experience in industry. An increase of wages acts as an added stimulus, especially where the old wages were inadequate to furnish the worker with nourishing food without which he or she lacked the necessary energy. Secretary Redfield's experience, interesting because he speaks as an employer of labor who has had more than ordinary opportunities to compare the efficiency of labor throughout the world, furnishes perhaps the most illuminating illustrations of this fact.

Most of Secretary Redfield's striking illustrations show how highly paid American labor is made cheaper than poorly paid European and Asiatic labor through superior American machinery and industrial methods. One illustration which brings out with singular clearness the connection between high wages and personal efficiency is worth reproducing here:

"Once, when my office was located in Paris, I employed a lot of French carpenters and paid them 10 francs a day — $1.90 each — and at the end of three or four days I was well-nigh crazy. Down the long aisle of the building I saw a familiar-looking tool box, with a saw sticking from the end, and I ran to the place and found a man who looked like an American carpenter.

"Are you a Yankee?' I said. 'I want to employ you at once,'

"He said. 'Boss, I charge $4.50 a day.' I said, Come right along.'

"Two days later I discharged four Frenchmen, for my one American carpenter did more work than the four Frenchmen — and I saved money by the process.

"There are sound reasons why the American carpenter did as much work as four Frenchmen.

"A French workman goes to work having eaten almost nothing. For breakfast he has nothing more than a bit of bread without butter, and coffee. At 11 o'clock he stops to eat a little bread and drink a little sour wine. That is all I ever saw any of them eat. At 3 o'clock he stops again to eat a little bread and drink a little sour wine. After he gets through at night he has what he calls a dinner. Such a man can not work at any labor requiring steady physical exertion continuously under pressure in competition with a man who eats three square meals a day." [16]

If these facts are true of men earning wages which are adequate under the standard of life to which they are accustomed, how much stronger must the connection be between personal inefficiency and wages which spell partial starvation or other privation? This has been so well put by H. La Rue Brown, Chairman of the Massachusetts Minimum Wage Commission, that it is well worth repeating:

"There is nothing which makes for inefficiency like hunger, worry and discontent. As a rule, you can be sure that the underpaid girl is hungry, that she is a victim of nearly continual worry, that she is overworked because she is trying to do her own cooking and washing as well as her work in the shop and that she is not getting the food and the care to keep her in condition to do good work, even if her mental attitude could be such as to inspire it. No man can say how many of the girls now said to be inefficient and 'not worth' the miserable wages paid would not be worth a higher wage if they were paid it. . . . If this sort of service were paid for under conditions which made for efficiency, it is very likely that the service would become efficient in proportion." [17]

[16] Wm. C. Redfield, The New Industrial Day, pp. 91–92.
[17] Annals of the Amer. Acad. of Pol. and Soc. Science, v. 48, p. 18.

What is to Become of the Worker Not Worth the Minimum Wage?

This brings us to the question of what is to become of the worker of less than average efficiency who is said not to be able to earn the minimum wage. It is feared that the adoption of a minimum wage law would throw many persons out of work, who, in the opinion of their employers were not worth the minimum wage. Admitting the existence of such workers among women and minors, there are other ways of dealing with the most helpless class of workers than throwing them out on the street.

The bulk of those incapable of earning a minimum wage may be divided into four classes: 1. Apprentices or learners. 2. Workers of less than average skill or speed, due to advanced age or physical defects or infirmity. 3. Workers who are incompetent owing to lack of training or education. 4. Exceptionally incapable or slow people.

1. As to the first, the law should recognize the existence of this class of workers by authorizing a separate and lower minimum wage than for adult experienced workers. This is the practice today in seven out of nine states having a legal minimum wage. The practice may easily lend itself to abuse on the part of unscrupulous employers who might find a way of having most of the work done by unskilled help who would be classed as learners. The Washington statute authorizing the Commission to set a time limit for the period of apprenticeship may prove instrumental in preventing the employment of the same person at less than a minimum wage beyond a certain period. It would not, however, prevent an employer from substituting new "learners" for the old upon the expiration of their licenses and thus evade the operation of the minimum wage law for the greater part of his employees.

In the dress and waist industry of New York city operating under the protocol fixing minimum rates of wages for various occupations, an investigation conducted by the writer disclosed the presence of from one-fourth to more than one-half of the workers in different occupations earning less than the minimum wage, the employers claiming that the workers in question were learners.[18]

[18] Wages and Employment in the Dress and Waist Industry, Bulletin No. 146 of the U. S. Bureau of Labor Statistics, 1914, pp. 12–13.

It therefore would seem appropriate to set a limit to the proportion that the number of learners or apprentices may constitute of the total number of employees in any establishment. The limit could be either set in the statute or, preferably, the Commission should be authorized by law to set different limits in different industries after an investigation of the technical conditions and system of of division of labor will have determined the proportion of apprentices which can be employed in a given industry. No state, to the knowledge of the writer, has such a provision at present in its minimum wage law.

2. In the case of defective persons incapable of earning a minimum wage, it seems fair both to the employer and to these people that the law should vest the Commission with authority to make exceptions in their favor by issuing special licenses or permits for the employment of such persons at a wage stipulated in the license. This is the practice today in eight of the nine states having minimum wage laws, the only exemption being Utah, which has no minimum wage commission and which fixes the minimum rate in the law itself. The economic justification of granting exception to defective persons is to be found in the fact that people of this class working at a lower rate of wages do not compete with the normal workers employed at a higher wage, since they can not render the same service. By providing for the personal licensing of every defective worker by the Commission and for the determination of the wage of such worker by the Commission, the possibility of abusing the law is minimized. As a further guard against abuse, it may be wise to follow the example of Minnesota in setting a limit to the number of such workers in any establishment, the limit in that state being fixed at 10 per cent. of the employees in the establishment, which seems to be rather high.

3. This class of workers presents a more serious problem. Unless they can be made to fit into the class of apprentices, it would be dangerous to make exceptions. Without a visible personal defect, as in the case of defectives discussed above, it would be most difficult, if not impossible, for the Commission to determine whether a given person was so incompetent as to justify exemption from the operation of the law. That such a provision would offer

opportunities for the wilful evasion of the law, needs no demonstration.

Moreover, as the minimum wage to be adopted, would be only a subsistence wage, it ought to apply to any adult worker useful enough to warrant her employment. Workers with an efficiency so low as to make their employment unprofitable at a minimum wage would fall under class 4.

4. The exceptionally incapable people whose efficiency is below the average, whether because of inherited physical or temperamental defects, or of unfortunate surroundings in the formative period of life, or of lack of early training, or of any of the numerous other causes which breed human wrecks and human failures, constitute a class beyond the reach of a minimum wage law. A large part of these is redeemable for their own and society's good. Industrial training accompanied by vocational guidance is the most promising agency for their redemption. A broad program for the education and social uplift of the masses seems to be a necessary corollary of an efficient minimum wage law.

But granting that the realization of these reforms would require considerable time, and that in the meanwhile the handling of the inefficients would constitute a serious problem, it is pertinent to ask whether the interests of society as a whole would not be better conserved by the protection of its normal workers who constitute the overwhelming majority, rather than by allowing an insignificant subnormal and abnormal minority to hang like a stone around the neck of the majority and drag it down to its own level? Even if all the members of the minority had to be supported by public charity until they were fitted for self-support — an assumption for the sake of argument, which is by no means warranted — it would be cheaper in the end to do so, rather than to allow them to reduce large numbers of workers who are fully worth a minimum wage, to partial starvation or dependence upon charity, vice or crime.

As Sidney Webb has so well pointed out, the adoption of a legal minimum wage substitutes for the competition in price, competition in efficiency.[19] Under free and unrestrained competition among

[19] Sidney Webb, Economic Theory of a Legal Minimum Wage, Journal of Pol. Economy, 1912, p. 979.

workers, when the supply of labor exceeds the demand, the inefficient worker gets the best of the efficient one by consenting to work for a lower wage. When, however, the employer cannot go below a certain minimum, he naturally prefers the best worker he can get for the money. Under unrestrained labor competition the inefficient frequently displaces the efficient worker; under a system of a legal minimum wage the efficient worker gets the preference and the inefficient is the last to be called in to fill industrial vacancies, — a distinct economic gain for society.

Perhaps this accounts for the fact that all the dire prophecies of the imminent ruin of the Australian industries which were made at the time of the enactment of the first minimum wage law have failed to materialize. After having a legal minimum wage in effect for nearly 18 years (since 1896), Victoria to-day is stronger industrially than ever before. In the five "sweated industries" to which the law was first made applicable, wages have increased from 12 to 35 per cent., while the hours of labor have been reduced.[20] During the same period the number of factories in Victoria increased from 3,370 in 1896 to 7,750 in 1912 and the number of workers employed increased more than two and one-half times, from 40,814 to 104,746.[21] When it is borne in mind that Victoria goes much further than any American state by fixing the minimum wage not only for women and minors, but also for men, the repudiation of the fallacy which regards a living wage as synonymous with industrial ruin, becomes the more emphatic.

STATEMENT OF FRANK H. STREIGHTOFF

If a living wage either for women or for men is adopted as a legal minimum compensation it will necessitate an increase of two, three, and even possibly more dollars a week in the remuneration of a considerable number of employees. Such additions will be a rather large fraction of the present earnings of these individuals, especially of the lowest paid women. Since most of the sweated industries are keenly competitive, an increase in wages

[20] Webb, ibid., p. 973.
[21] Report of Chief Inspector of Factories and Shops of Victoria, 1913.

paid for the same labor will naturally mean that the producers who are barely making a success of their business will be forced to raise prices. The result will be one of two alternatives. If the men producing at the highest costs cannot find a market at these increased prices, there is no choice for them but to shut down. That will mean that their employees will be thrown out of work. Suppose, on the other hand, that these least efficient producers are enabled to remain in business; prices will have to be raised enough to cover the full amount of the higher wage bill. An increase of prices will mean a shrinking of the demand either for the product of the affected industry alone, or for the output of several forms of business. Whether this decrease in demand is general or particular it will diminish the need for labor. In short, whether the least able producers remain in business or fail absolutely, there will be a curtailment of production and resultant unemployment.

According to the Federal Census of 1905, twenty-one per cent. of the cost of producing shirts in New York State is spent for labor. Dr. Woolston tabulated for the Commission the statistics of wages of the operatives in this industry. If the pay of all the men employed in New York State in shirt-making at less than $18 a week were raised to that sum, and if the renumeration of all the women hired for less than $9 a week were raised to that amount it would mean an increase of about fifty-seven per cent. in the wage bill and of approximately twelve per cent. in the total cost of production. This change would increase the compensation of 82.4 per cent. of the women and of 82.5 per cent. of the men. It is then evident that benefit could be secured to a very large proportion of the employees in this industry without a tremendous increase in the cost of production.

There are reasons for believing that the cost of production might not, in the long run, be raised at all. Surely an increase in pay from $5 per week to $9 will enable a girl to live so much better that she will be far more efficient. One of the most striking facts about sweated labor is its small productivity. Good food, good clothes, good living conditions will build up efficiency in employees until the labor cost will be cut down. Surely, then, this calculated increase of fifty-eight per cent. in the wage bill

may by no means imply a similar increase in labor cost. Again, when the minimum wage law went into effect in Utah, many of the managers explained the situation to their employees and the response was an increased exertion. So there are two factors which will tend to lower the cost of a legal minimum wage — first improved health and second harder work.

The increase of prices which may follow higher wages does not necessitate a lessening of demand for the product. The better paid employees will be consumers of greater strength. That is, the increase in their consuming power will be much greater proportionately than the increases in costs of production.

Carry this reasoning a step farther. If increased efficiency of labor is a consequence of minimum wage laws, then the industry will need fewer employees. It is highly probable, however, that the persons thus displaced may find work in other industries which will be stimulated by the added purchasing power.

There is a final reason for believing *apriori* that the minimum wage will not injure greatly the field of employment. Labor seems very often to be paid less than it is worth. In different shops essentially similar work frequently is rewarded very unequally. It seems safe to assume that the low wage shops are in the main those which are barely maintaining their existence. Now, if a minimum wage should force out of business the men who are paying at the lowest rates — their trade would normally go to the others, to those who are paying the highest wages. So the high wage shops could furnish employment to some of the persons originally displaced.

Thus abstract reasoning based on premises drawn from the actual conditions of industry reaches the conclusion that the tendency of a minimum wage to displace labor will be largely if not wholly counteracted by (1) the increased efficiency of the workers due to improved health, (2) the increased effort of the laborers due to new incitements from employers, (3) the increased purchasing power of those not displaced calling for new production, (4) the ability of the successful shops to absorb the business and the labor of the unsuccessful.

Do these *apriori* conclusions stand the test of empirical criticism? It is readily granted that most economic forces cannot be

measured, yet this much evidence may be offered. The consensus of the best opinion seems to be that the introduction of new machinery which tends at first to displace workmen, eventually benefits labor as a whole. It is not a farfetched comparison to liken the increase of efficiency of labor by means of providing proper care for the human mechanism (a living wage) to the introduction of machinery that increases the product of each hand.

Professor M. B. Hammond in his studies in Australasia found evidence that no employers had been driven out of business by the minimum wage laws, and that few workers had been displaced. Four years of experience in England have witnessed no great expulsion of labor by the action of the Trade Boards. The following letters show that American experience as far as it goes gives no warrant for the fears that business will be seriously injured and that idleness will be increased by enforced minimum wages.

November 30, 1914.

I have your letter of November 28th regarding the fixing of the minimum wage in this state. * * *.

You ask whether this or other labor legislation has driven business out of the state. We are in possession of no information to indicate that this is the case. The brush rate is very generally being paid and we know of no instance of employers being driven out. * * *.

Yours very truly,

(Signed) AMY HEWES,

Secretary, Minimum Wage Commission, Massachusetts.

December 2, 1914.

I have your letter of November 28th requesting information concerning the effect of the enforcement of the minimum wage law in this state. We have not heard that employees have been laid off because the law has gone into effect with the exception of a very few instances. One exception was in the case of a department store which laid off the employees in the wrapping, transfer and stock taking departments, because the girls had been there a year, therefore had completed their apprenticeship under ruling

in force and were entitled to a raise from $6 to $9.25 a week. As these occupations are all unskilled, the firm dismissed the former employees and took on new ones. This is an abuse which the Commission had rather expected. Since our fears have been realized, we have called Conferences for the purpose of making recommendations which will shorten the term of apprenticeship or establish a step-up wage during the year, thus minimizing the danger of dismissal. In some departments the apprenticeship period may be done away with almost entirely.

We have not heard of a single firm which had to go out of business because of the operation of the law. Last evening I heard the secretary of the Oregon Manufacturers' Association say, that he knew of no one who had gone out of business and was convinced that the law had not done the harm that it had been expected to do.

* * *.

Very truly yours,
(Signed) CAROLINE J. GLEASON,
Secretary, Industrial Welfare Commission of Oregon.

December 1, 1914.

* * *. I am in a position to state that this law has not resulted in driving any employer to the wall or compelled him to leave the state. I can also positively state that I do not know of a single employee who is suffering the loss of employment because of this law.

Sincerely yours,
(Signed) H. T. HAINES,
Commissioner, State Bureau of Immigration, Labor and Statistics, Utah.

This matter of displacement of labor is really the crux of the question of the desirability of the minimum wage. Reasoning and experience seem to coincide in encouraging the belief that the living wage can be legally enforced in sweated industries without any great ill effects. The probable good consequences have been pointed out by other contributors to this symposium.

This reasoning, it may be said, seems to be valid except for the fact that any commonwealth wherein such legislation is enforced will have to face the competition of states less advanced. To this

objection three answers may be made. First, increased efficiency of employees will make it unnecessary for many firms to migrate. Second, suppose the sweated industries were driven out of New York, would not the state be better off? There would be a severe spasm of maladjustment, then migration and changed currents of alien immigration would eventually relieve the situation. Finally, the examples of industries driven out of states by labor legislation are few and far between. Some industries, as the department stores and paper box works, could not be driven out of the state because they must be close to the consumers. The complication of interstate competition is, then, not serious.

STATEMENT OF F. W. TAUSSIG

I will endeavor to say something briefly on the minimum wages question. I must do so with brevity; to state my opinions with fullnesss, and with all needed qualifications, would call for a long memorandum.

I gather the main facts to be in outline as follows:

1. The number of women employed in factories and workshops tends to increase.

2. A large majority of them are young women. They form a temporary and shifting class. Most of them marry.

3. Hence they are inexperienced, unskilled, have no great ambition to learn a trade or specialty, or to rise in the industrial scale.

4. A great majority of them live at home. Their wages, altho they by no means constitute "pin money", are a part of the earnings of the family.

5. A very large proportion, probably much more than a majority, receive wages (say, such sum as $6 a week) which are less than the minimum cost of decent living for a woman who has to take entire care of herself (she will need perhaps $8 a week).

6. This is *not* "parasitic" industry. It is often said that these women are partly supported by their families, and that the industries are therefore "parasitic." This seems to me a fundamental and wide-spread mistake. The families are not worse off

because the young women earn $6 a week; they are better off. If a young woman thus working were to die, the family would not be better off (materially) because of her loss. She does not cost the family more than she brings in.

7. The probabilities are — there is no certainty in matters of this sort,— that the ordinary wages of about $6 a week represent what girls of this sort are worth in industry. If a minimum rate of $8 a week were established for them, a considerable proportion would probably no longer find employment. This effect might be intensified by the circumstance that at the higher rate of wages more competitors would be attracted — young women who do not now enlist because the current rate is low.

8. It is better for the young woman to work than to idle. Under our present educational system, and indeed under any educational system that seems now feasible, there is an interval between the close of the school period and marriage, during which it is physically and morally healthier for the women to be at work than to be engaged sporadically and half-heartedly in housework. Ordinarily, the house work can be done without the aid of those who now go into the factories.

9. There is a sad hardship for the minority who are absolutely dependent upon themselves, and who can get no more than the rate of wages determined by the competition of the much larger number who are living at home. I am unable to see how a system of minimum wages would help this minority, since there is nothing to cause them to be selected for employment in preference to the others. Their case is one which in peculiar degree calls for the exercise of discriminating charity, in the way of lodging houses and aid in learning a better paid specialty or trade.

10. The conditions under which all the women, both those in the minority and those in the family-living majority, carry on their work, call for searching examination and supervision. Hours should be limited; an eight-hour law for all women of all ages has much to say for itself. Sanitation, ventilation, regulation of dangerous trades, prevention of occupational diseases, supervision by a good corps of women inspectors — these things are called for. I regard them as more likely to be in the long run of aid than a system of minimum wages.

STATEMENT OF FRANK D. WATSON

The theory of the minimum wage I believe to be economically sound. It can hardly be gainsaid to-day that in some lines of industry the competition for employment is so intense as to force wages below the living level and that the conditions which control the number of competitors is often "so inflexible that they continue at starvation rates year after year with no tendency toward improvement." Such being the case, the necessity for abandoning a laissez-faire attitude toward the wage question in certain of its aspects seems imperative.

The factors that enter into the determination of wages are many. Of these the one that seems most important to the writer is the number of workers available. Where the number of jobs exceeds the number of workers, wages are relatively high. Where the opposite obtains, wages are relatively low. It therefore logically follows that to raise wages permanently of any one group from below a living level to that level or above it, involves a change in the ratio of workers to jobs. This may be accomplished in time by a program of industrial education, vocational guidance, a better geographical distribution of population through the opening up of new industrial opportunities, and possibly by a restriction of immigration that would especially affect laborers of low efficiency.

The present situation of low wages in certain industries demands in addition to the above measures some more *immediate* steps which will be not only supplementary to a program of industrial education, vocational guidance, etc., mentioned above, but will actually hasten such a program. It is the opinion of the writer that such may be one of the effects of minimum wage legislation. It is not a choice of "either or" but a case of "and-and." Minimum wage legislation and industrial education must and will go hand in hand.

The effect of the establishment of a minimum standard-of-living wage would result in an increase in wages for some employees and loss of employment by others. The increase of wages for some might be the result of the destruction of mere inertia which through custom had held wages down. Often an employer would be willing to grant an increase if he was assured that his com-

petitors would. In such a case the principle of the minimum wage prevents the penalizing of the employer who would gladly pay a living wage. In reference to the second possible effect, viz:, the loss of employment for some workers, it is not the belief of the writer that the displacement of labor would be very great with the passage of a minimum wage law, if the minimum were fixed at a point not higher than is necessary to secure "the necessary comforts of life." This seems to have been the experience of other countries. In some lines prices would probably be raised somewhat at first, but the community would be compensated by the increased health and efficiency of the workers who would be less likely to become public charges. Moreover an industry that can not afford to run without paying living wages is pauperizing the consumer and should receive no consideration in any statesmanlike handling of the problem. A certain amount of displacement of labor would doubtless occur. However as it would separate out the unemployables and the unemployed, it would be socially advantageous as it would define more accurately on the one hand the limits of the unfortunate class who should be cared for as wards of the State and on the other hand it would afford an object lesson to the public of the need of industrial education and training for efficiency such as might hasten the movement for industrial education.

As to the extent to which minimum wage legislation should be made to apply, my answer would be, just as far as an investigation of wages of men and women indicates that less than a living wage is being paid. For obvious reasons it would be well to begin with those industries which are generally known to pay less than a living wage. In thus applying the principle of the minimum wage to all workers, men and women alike, I agree with Professor Holcombe (see *The American Economic Review,* Vol. II, No. 1, p. 27) that a statute regulating the wages of men in private employment, while undoubtedly placing a restriction upon the freedom of contract, does not alone render such a statute unconstitutional. The police power of the State, I believe, is sufficient to protect the public health and welfare against the evil results of underpayment. I fully appreciate the fact,

however, that with the present state of public opinion it would doubtless be easier to secure the passage of minimum wage legislation affecting women and minors only.

In reference to the details of the machinery of administration, the writer does not feel qualified to speak. He does, however, believe that the Oregon law is an improvement on the Massachusetts law in so far as it is enforceable by other means than public opinion. He moreover feels that the Oregon law along with the Massachusetts statute would be strengthened if the wage earners of any industry in question were allowed to elect their own representatives to the wage conferences or boards, provided for in the respective laws of each State and which as now constituted are appointed by the respective State minimum wage commissions. If the election by the workers of their own representatives is not feasible in view of the existing state of public opinion, it would seem to the writer that a method better than that obtaining in the laws of the above-named Sates would be to allow the workers the opportunity of submitting a list of names from among which the State Commission would be required to select the representatives of the workers on the board. Likewise the manufacturers in the particular trade involved should be granted the similar privilege of submitting a list of names of persons to represent their interests from which list the Commission should choose their representation on the wage board. These two groups of board members along with the Commission should then choose the representatives of the public on the board. One member of the Commission should be ex officio a member of the board (or conference).

The writer further believes that in working out the details of any plan of administration, provision must be made for the customary issuance of licenses for those persons who because of special handicaps cannot reach the standard of efficiency set by the legal minimum. However the number of such licenses should be strictly limited. Provision should also be made for a rate of pay for apprentices which would be less than the legal minimum. In this case the law should limit the length of time that any apprenticeship may last.

STATEMENT BY A. F. WEBER

Every modern industrial State, whether under a democratic or an autocratic form of government, has found it necessary to establish standards of sanitation and work-hours, and in other ways to interfere in the contractual relations between employer and employee. These elaborate codes of labor laws have been enacted to protect the health and economic well-being of wage workers, who constitute a large proportion of the citizenship of industrial States. The wisdom of this policy of labor protection is no longer seriously questioned.

Should this policy be extended to include the authoritative establishment of minimum wage rates? The question demands answer from constitutional and administrative law as well as economic theory, for we must consider what *can* be done as well as what ought to be done.

In the first place, we shall be reminded that while wage workers cannot be presumed to possess such knowledge of hygiene as would enable them to determine whether they were justified in going to work under the conditions existing in the workplaces where they were employed, and should therefore be protected by expert inspection of factories, they do nevertheless know very well what the particular wage-rate offered them signifies in every case and are fully capable of arriving at a decision to accept or decline the offer. But the case may not so easily be disposed of. Does the sailor know the precise coefficient of risk of life and limb that causes insurance companies to fix a high rate for his occupation? If so, it does not appear to have influenced many of the men who go down to the sea in ships, for their calling is notoriously underpaid. The situation is even worse in the "sweated trades" of a metropolis like London or New York, where the compensation paid is not even a living wage. The fact is that the premises on which the economist bases his theory of wages (that free competition tends to give to each laborer the equivalent of what he produces) are seldom realized. Combination in place of competition, ignorance instead of knowledge, absence of a reserve supply of food, and many other circumstances contrary to the assumed premises or hypotheses of the economist, render untenable the position that

wages are invariably or even generally fixed by natural economic laws, which may not be modified by any "artificial" standards of the legislator and administrator. This conclusion was reached at least twenty years ago by competent investigators. There is little to be added to-day to the admirable treatment of the Standard Wage by Sidney and Beatrice Webb in their great work on "Industrial Democracy."*

If the interference of the State is necessary to secure a living wage for large masses of women and children, it is safe to say that constitutional difficulties will be overcome. If necessary the constitution of the State will be amended, and in the meantime New York can follow the example of Massachusetts and provide for wage boards with no power of enforcing decisions except publicity.

The most serious objection to minimum wage legislation is that of practical administration. It takes comparatively few inspectors to find out whether the statutory requirements as to safety and sanitation in factories are complied with or not; but it would require an army of inspectors to make sure that a wage established by an outside authority was actually received by the wage earners. But here, as in other difficulties in this field, we can learn from others how to proceed. Minimum wage boards were established in Australia more than 20 years ago and have long since passed the experimental stage. A study of their workings would enable American boards to avoid many mistakes. But we also have some experience of our own that should prove helpful, the data accumulated under the protocol of the New York City clothing trades, for example, should be exceedingly valuable.

Minimum wage legislation in New York should without doubt be restricted at the outset to women and minors just as it has been so restricted in the nine other commonwealths of the United States that have already entered upon the policy of minimum wage legislation. Wages paid to women and minors are almost universally lower than those paid to men, and in many instances women and children are excessively underpaid. While a grown man must

* Especially chapters II and V of Part II and chapters II and III of Part III. See also S. Webb's article on the Economic Theory of a Legal Minimum Wage, in the Journal of Political Economy, 1912.

be at least self-supporting, even if unmarried, there are multitudes of women and children who do not have to live on the wages they themselves earn. Deriving at least a portion of their support from the male wage-earners of the family, they are free to work for wages that are utterly inadequate for the self-supporting widow or single woman and in accepting work thus underpaid they create the problem that requires the earliest action on the part of the State. The employments in which this situation is most frequently found have presumably been discovered by the investigation of the Commission, which has more ample knowledge than the average citizen possesses concerning actual conditions.

II—SOCIAL WORKERS.

STATEMENT OF FELIX ADLER

The principle of the minimum wage commends itself as an expression of the social conscience. It is one method, already tested experimentally here and there, though as yet inadequately, to secure the recognition of the human factor in the production of wealth. It involves the conviction that at the very least a standard of living indispensable to decent subsistence shall be assured to every worker, and that a trade which can prosper only on the condition that those who labor in it shall be starved or degraded has no right to exist. It involves furthermore the deliberate judgment that the community as a whole acting through the organs of the State is under obligation to see that a minimum standard of this kind be established and maintained. We have come to see that there is such a thing as a collective responsibility for the health, the safety, the gradual elevation of the masses of the laboring people.

The following points also have struck me as important:

1. A reduction of wages in times of depression may become necessary. A standard rate below which wages shall not fall ought to prevent the reduction from becoming a collapse.

2. I believe that a standard rate will promote rather than discourage trade organization. It will be a jumping-off place from which to achieve an advance of wages when industrial conditions permit. It will secure to the workers the means, the self-respect, the incentive to still further improve their condition.

3. In the administration of the minimum wage there should, of course, be no attempt to establish a horizontal rate for all industries; due regard should be paid to the conditions prevailing in each; and the rate should be sufficiently flexible to tolerate carefully guarded exceptions where the dictates of humanity require them, as for instance, in the case of cripples.

STATEMENT OF FREDERIC ALMY

What I have to say in regard to minimum wage legislation is academic, and does not particularly concern women and minors.

In saying it I shall use some sentences which I have used elsewhere.

Fortunately the price of men is going up in America. This is partly through organization and a higher standard of living, but legislation can assist. It is no more against freedom of contract to forbid a man to sell his labor for less than a living wage, than to forbid him to sell money at usury. Cheap men make cheap citizens, and it is just as much against public policy to buy men too cheap as to sell money too dear, no matter how much both parties may desire it. Pope Leo XIII declared for a living wage in 1891 in his encyclical "Rerum Novarum", and so did the Federal Council of the Protestant Churches of Christ in America in 1910. Higher wages do not make higher living, but they make higher living possible, and poor living is very costly to the state, especially with universal suffrage.

The individual employer is powerless without a state law which controls his competitiors. The unwilling employers who now compel their more generous rivals to meet their wages and hours may be in turn compelled by law, so that the bad men will be compelled by the good instead of the good men by the bad as at present.

On the other hand it is true that the $1.50 a day laborer is often not worth even the $1.50 that he is paid. Minimum wage laws will compel manual education, as universal suffrage has compelled mental education. As John Mitchell has pointed out, with a minimum wage law the contest between men will be one of efficiency and not of cheapness. To get steady employment in stead of odd jobs, men must see who can do the best work, not who will take the least pay. If the shirkers and the incapables get no work, and are dealt with by correction or charity, the stigma will be obvious and more wholesome than the present system.

The pioneer states may suffer, but men have always been willing to suffer in good causes. Moreover, the pioneer states and cities which have passed child labor laws and housing laws which raise the cost of labor have not gone down industrially before their rivals. No state can prosper where a wage is general on which steady, hard labor by willing but unskilled men and women does not afford the decencies of life. The poverty which is often due

only to low wages brings in its wake disease, immorality and ignorance, all of which are contagious, and expensive to society.

A larger wage will make a larger market, for men's wants increase rapidly with larger means for gratifying them.

When raw cotton or raw ore are permanently dearer, the industries adjust themselves in time and the factories continue to make money. It will be the same when men are dearer. Prices might go up, but the higher price of goods would include luxuries like yachts and velvets which the laborer does not use, and his net gain would be considerable. If this were not so, he would not be injured by lower wages, for the cost of living would be reduced.

The experience of New Zealand and Victoria for twenty years, and of other countries later, is encouraging. The recent example of England and Massachusetts is also encouraging. All good general laws have their special hardship, and no law is a panacea, but a good minimum wage law will help to make a better breed of men.

(This is a personal opinion, and does not in any way represent the Charity Organization Society of Buffalo.)

STATEMENT OF INEZ MILHOLLAND BOISSEVAIN

The establishment of a minimum wage seems so obvious and necessary a measure of reform, that it is difficult to conceive of the character of its opposition.

Apparently, the opposition finds support in the following arguments. The minimum wage is undesirable, they claim.

I. *Because the Minimum Tends to Become the Maximum*

The difficulty here, lies in regarding the minimum as a wage; whereas in realty it is an *amount* or *standard,* below which no wage should be allowed to fall.

The opposition believes in State determination of hours and sanitary conditions, and these are exactly comparable to State determination of the lowest possible wage; for the laws establishing maximum hours in a given industry or the maximum number of workers in a work-room or the minimum amount of windows or of cubic air space, set the standard below which no manufac-

turer is allowed to operate. Nor is it claimed, for these regulations, that they are the last word in the matter of improvement; they are being improved upon all the time; *high standards beget higher standards;* low standards perpetuate meagre demands and degradation of thought and conduct.

Speaking of the wage board in the tailoring trades in England, Mrs. Glendower Evans says: "There was no tendency to make the minimum rate a maximum. On the contrary, the higher paid were systematically advanced to keep a due relation to the less capable."

II. *That it Does Away With the Driving Power of Trade Unions*

The more barren the living conditions the more de-vitalized is the individual, and hence the greater is the amount of energy required to evolve or conceive of a standard very different from that which is current in the life around them; and this very energy to conceive is lacking because of de-vitalization.

Every under-paid, and hence under-nourished, individual adds to the dead weight of inertia which the enlightened group must struggle to drag forward, in any attempt, whether by law or union, to introduce ideas of mutual aid, or a higher standard of living.

The underpaid respond to more money, fewer hours, etc., of course, but their brains are too dull, their bodies too anaemic to respond to, or sustain the methods necessary to obtain either.

Sustained effort and response comes from the well-fed group.

Hence it is, that only the well paid are progressive in their demands; and such progressiveness is what is needed to increase a union minimum; it will do the same for a legal minimum.

I know a department store girl, who, when she was getting $7 a week, was apathetic, disinterested, unapproachable, if not hostile to the union organizer; later, when promoted to $12 a week, she became an enthusiastic supporter of the union, eager, educated, unafraid.

During the winter of 1913-14, I invited to my home one evening a week, the girls of the New York department stores. They were invited to come direct from work, so that they knew that nothing in the way of dress or formality was expected. They were

invited to dance, to hear music, to discuss current ideas, to read, to consider their own problems, incidentally to learn about the Union. On the whole, only those girls responded who were receiving more than the average wage ($7). Intelligent girls came, well dressed girls, girls who were participating in outside activities and organization; in other words, girls who were able to relax, who were not under the terrible day-to-day strain of privation and under-nourishment. From these girls, we heard of the others, but, exhausted and bitter and driven, it was hopeless to get them to join us.

The others, those who came, proved a fertile field in which to work; they developed class consciousness, purpose, courage and the co-operative spirit.

These meetings brought in numerous members to the Retail Clerks Union, and incidentally a group of vigorous thinkers who easily understood the bearing of a public question on their particular need. One night, one of the members brought in a newspaper clipping, reporting the establishment of a minimum wage for women in Oregon; this clipping which she declared a highly significant sign of the times was the basis for a discussion of the whole minimum wage problem in which it seemed to me every conclusion on the subject by investigators all over the world was introduced. It ended in a general agreement that Lt.-Gov. O'Hara's minimum $12 per week was the only one for a living wage. "Anything else," said one of the girls, " is an *existing* but not a living wage."

In any case of protest on the part of the girls where their rights were impinged upon (for instance, as where they were allowed to go at 5.30 by law, but were detained until 6 — or where they should have had time off for overtime the night before), I found it was the spirited girl, the girl who was comfortable who dared to protest.

These girls made up for me their weekly and yearly budgets, but as these reports have already been forwarded to the Women's Trade Union League, for the benefit of the Factory Investigating Committee, I shall not re-submit them.

In conclusion, let me say that we never, at any time throughout the winter, were able to approach those girls who most needed

some color in their lives, the $4, $5, $6 a week girls. They were too timid, too weary, too lethargic.

In the garment strike of 1909-10, I remember without exception that all the girls with whom I worked, or whom I encountered, who were active in the endeavor to improve conditions in the trade for the less fortunate, were girls who were getting a more than living wage.

I remember one girl, a Russian, who told me she was getting $15 a week. She had been the first in her factory to strike for better pay, although she herself expected no increase thereby and had led down 40 or 50 others. But her good efforts were rendered useless by the fact that the factory was able to go on working with the remaining staff who stayed at work. The leader of the "scabs" was an American girl whom I undertook to persuade to strike. She refused, and when she told me she was getting $10 a week on which to support a sick mother and brother and sister, I had not the heart to persuade her further. I told the Russian of my failure and she shrugged her shoulders: "It means the same for me as for her," she said, "but my mother who is blind, told me when we struck, 'Keep up the fight, even if we starve and are dispossessed — strike for the poor ones who can't hold out for themselves.' I am."

Greater comfort in this case went hand in hand with a higher ethical sense — one's obligation to more than one's immediate family — to the whole group.

The driving force of trade unionism would be added unto, not decreased, by the creation of this sort of material.

Mrs Florence Kelley says that "a *great incentive to organization* alike in Cradley Heath and other areas is a further result of the coming of the trade board."

Mrs. Elizabeth Glendower Evans says: "Moreover, as has been found in each of these other countries, a *minimum wage law to become a working power needs reinforcement by trade unions.* In the United States, where minimum wage laws have so far been applied only to women workers, trade union alliances are less likely to develop than where the law applies to women and men alike. Women, however, are learning the art of

organization and already in one State, the activities of the Minimum Wage Commission have aroused an incipient trade union movement, thus demonstrating that even under American conditions *minimum wage boards are an entering wedge for trade unions.*"

And again, "Among other benefits it tends to promote *association* among the workers."

Speaking of the chain-makers of Cradley Heath, she says: "It was the intervention of the Government that aroused these oppressed people to strike; *but without the union,* they would have been starved into submission, and the trade board forced either to lower the rates it had fixed or to see them become a dead letter. *Out of their own experience, the workers learned that in union there is strength.*"

"The clothing operatives union of Hebdon Bridge" (England), she continues, "increased from 29 to 300" (during the year the industry was subject to regulation), "while throughout the country the union so grew in numbers that it came to embrace more than three fourths of the working people in the trade." * * * A legal minimum wage is an attempt to pick him (the worker) up and keep him standing. It need not be a high rate. It is enough if it puts solid earth beneath the trade union in the trade, and lays a foundation on which the union can build a proper superstructure.

In describing the Westinghouse strike, George V. S. Michaelis says: "These were no sodden peasants, dumb and stupid. They were highly literate. Many wrote in two languages. No plants in the country had a higher type of employees."

It has been my universal experience that those who welcomed union ideas, or were interested in any programme designed for the benefit of working people, were the better fed and highly paid. I was a member of the Socialist Local at Poughkeepsie, composed almost entirely of workingmen. All of these who met for the discussion of ideas to improve the conditions of workers, were themselves moderately well off. They welcomed every form of workingman's organization — the union most of all.

III. *Because it Will Throw People Out of Employment*

Highly desirable if true. For it means that those people are ousted who are a drag on the trade — and who debase conditions for the efficient. That the incompetent must be looked after in other ways, goes without saying, but the efficients in a trade, should not be penalized for the incompetency of the weaklings. Moreover, the ousting of incompetents will put the problem squarely up to the government, " How are incompetents to be cared for, and provided with work suited to their capacities?"

So that the incompetent are benefited in the long run, as well as two other classes: the competent employed, and the competent unemployed who must be recruited to take the places of the ousted incompetents.

There are many classes of incompetents, whom it is a mercy and a state service to exclude:

1. The children;
2. The aged;
3. Exploited women;
4. The maimed;
5. Defectives.

Let these classes who are doing a strong man's work, not because they do it more efficiently, but solely because they do it more cheaply, be replaced by strong men, men with families to support, who can only afford to work for a minimum living wage.

IV. *Because Organized Labor is Best Judge of What Working People Want*

The A. F. of L. represents a small, though admirable proportion of working people. But the very class whose needs the minimum wage is designed to meet are unrepresented by the A. F. of L., for they are unorganized, the unskilled workers. Therefore although the A. F. of L. is the best judge of what the A. F. of L. want, they are not at all the best judges of what working people in general want — for they have no means of referring to them — no machinery with which to do it. And the best judge of an individual's wants is the indiviual herself — in every case. The educated person may be the one best equipped to teach us how

to attain our wants—but he never may determine those wants for us.

Now, all working people as I have known them — department store clerks — garment-makers, stenographers, dressmakers' assistants, trained nurses, have been in favor of a minimum wage — A. F. of L. notwithstanding. And although any opinion is of necessity limited, because we have no referendum machinery, nevertheless the above is one individual's experience set forth for what it may be worth.

Moreover, the A. F. of L. does not decide for large bodies of working people, the revolt against craft unionism represented by the A. F. of L., and the increasing membership of the I. W. W. bear witness to.

Nevertheless, if I felt that the principle of unionism, irrespective of its particular manifestation, were jeopardized by the establishment of a minimum wage, I should be opposed to it. But I believe a minimum wage produces the material which is best fitted for the union stamp.

V. *Because the A. F. of L. Has Apprehensions Against Placing in the Hands of the Government Additional Power Which May be Used to Harm the Workers*

Such power is already vested in the government, and the sooner the workers learn that they must control the government, the better. At present the government expresses almost altogether the interest of the employers; the workers must learn for their own protection, to handle the same weapon. For the future they must learn to operate consciously in the political field as the A. F. of L. has taught them to operate in the industrial field. The workingman's party will undoubtedly replace the A. F. of L. as a medium of expression for Labor. Everywhere working women are becoming conscious of this fact, and it is only a question of a generation before they teach their sons.

VI. *Because it Takes the Initiative Away from Working People*

By placing working class interests in government hands, working class initiative is increased, rather than decreased, because:

1. There is less risk in opposing a government measure than in opposing the will of the employer by strikes, etc. To vote an in-

crease does not jeopardize a man's job as it does to strike for an increase.

In persuading members to join the Union, we find it very much easier to do so when secrecy is guaranteed. To vote is a secret process, to strike is manifest.

2. The idea or measure receives more advertising as a government proposal than does a union demand. It is presented by every candidate, by every newspaper, by every possible medium of publicity. Presented so often, it induces discussion; discussion eventually produces action.

3. The specific demand is uncomplicated; that is, it is not tied up with a series of other ideas which go to make up the principle of unionism, and, thus simplified, it is easy for the individual to decide "yes" or "no" on the proposition.

Incidentally, with one definite and beneficent step accomplished, it is easier to introduce the whole idea of unionism, and the methods for obtaining it, of which the step was but a part.

It is true, for the same reason, that employers favor the enactment of a law who do not favor unionism. The employer is confused, like the unskilled worker, as to what unionism stands for, and he must be introduced to the idea in small doses.

VII. *Because Trade Unions are not Willing to Accept an Experiment as a Substitute for its Work*

Government control and regulation of working class interests has passed the experiment stage.

VIII. *Because the Law Processes Take too Long*

That is because working class consciousness is not back of the law as yet. And the objections to state action on the part of the A. F. of L. is helping to divide that consciousness, and to divert it. The A. F. of L. at present formulates the working class demand, and then acts as intermediary between labor and political action — an unnecessary redoubling of energy. Whatever manipulating must be done had better be done by the candidate dealing direct with his constituents — the working people — without the intermediary. Nor is the wire pulling in politics any more rampant than that in a federation.

IX. *Because of the Cosmopolitan Character of the People — Differing Languages, Differing Customs, Etc., It is Hard to Get Them to Co-operate*

Not half so hard to swing them into line back of a given legislative proposal which every medium — newspaper, candidate, moving picture, etc., takes the trouble to present and explain, as to persuade them of the value of the complicated philosophy of mutual aid in the shape of trade unionism.

But like Mrs. Kelley, I believe in this country "we are suffering from a surfeit of speculation as to the probable effects of establishing minimum wage rates."

JOINT STATEMENT OF BAILEY B. BURRITT, JOHN A. FITCH, HOMER FOLKS, PAUL U. KELLOGG, JOHN A. KINGSBURY, SAMUEL MCCUNE LINDSAY, CHARLES S. MACFARLAND, WILLIAM H. MATTHEWS, FRANK PERSONS, STEPHEN S. WISE

In reply to your letter of October 3d, as to remedies for the underpayment of a large body of wage-earners in the State of New York, we beg to point out that minimum wage legislation is now in force in the State of Oregon and has been sustained as constitutional by the Supreme Court of that State. As you doubtless know, rates are also in effect in Minnesota, Washington and Massachusetts.

It is, of course, too soon to claim that such legislation will everywhere and promptly solve this difficult problem. It has, however, one merit which particularly recommends it to those who believe in Democracy. It is the first attempt in all the history of industry to give to underpaid women and girls a voice in deciding what compensation they should receive.

The essential point in all such legislation is the creation of a State Commission with wage boards composed of representatives of employers, employees and the public. This insures that, besides the primary aid of removing one industrial cause of poverty, a secondary aim hardly less important is served, namely, that the sense of justice of the workers and of the community is satisfied.

The employer is freed from the pressure of his meanest competitor, and the worker is enlightened as to the actual difficulties that beset the industry. Being more conversant with the whole situation, both are correspondingly more tolerant.

This is no mere theorizing. As to these facts we have eighteen years' accumulated experience in Australia and four years in England.

For want of such machinery we have within a few years seen in the streets of New York little girls of 14 years acting as pickets during great strikes. The Minimum Wage Commission affords a dignified medium for the expression of the needs of the now defenceless workers and of the now silent conscience of the community.

This method has afforded no instant cure for industrial underpayment, but with the least dislocation of industry and no actual injury to business, it has wherever attempted steadily raised the lowest levels of labor.

Every investigation shows afresh that wages are now for the most part chaotic, especially in the worst paid occupations, different employers paying different wage rates for the same grade of labor. Minimum Wage Commissions introduce a business-like method of standardization. In the nature of things the incompetent employer is thereby stimulated to greater efficiency, and the incompetent employees must either earn the new wage rates or go in search of technical education to enable them to do so. For this education our State is now preparing on a large scale.

We consider that Massachusetts has set a good precedent for the industrial States of the East by appointing wage boards under its Commission to take up one industry at a time, studying it in detail intensively, and thereafter recommending a rate on the basis of agreement of the representatives of all the parties in interest.

There never was a time when such legislation was more needed, for with bad times and the influx of refugees which has already begun, wages must go even lower without effective action to keep them where they are.

We would earnestly urge upon your Commission the continu-

ance of the magnificent record which it has already achieved, that it be not held back from recommending a Minimum Wage Commission by any fear of difficulties of administration.

PAUL U. KELLOGG,
CHARLES S. MACFARLAND,
W. FRANK PERSONS,
HOMER FOLKS,
BAILEY B. BURRITT,
WM. H. MATTHEWS,
SAMUEL MCCUNE LINDSAY,
JOHN A. FITCH,
JOHN A. KINGSBURY,
STEPHEN S. WISE.

STATEMENT OF RT. REV. F. COURTNEY

It is not very long since the question of wages was allowed to settle itself by what was called the law of supply and demand, but when presidents and boards of directors of great companies took the place of individual employers or of firms of limited membership, and labor unions were organized, and strikes and lockouts took place, conditions were speedily changed, a state of war between capital and labor being the result. Once in a while matters would get into such a bad state, entailing great want and suffering on the part of all on the side of labor, and pecuniary loss on the side of capital that various forms of interference were adopted by the State for the settlement of difficulties and the resumption of work. Gradually, more and more attention was fixed upon the question of how much a working man ought to have, in order to provide for the necessities of his family, it being taken for granted that somehow he must be in receipt of at least that amount, in order to *make and keep him, as a citizen, an asset in the welfare of his country.*

It has been the policy of the government of the United States to endeavor to protect and foster weak and struggling trades by imposing a heavy customs duty upon the products of such trades imported from other lands, thus so far as those trades were profitable, making the consumers of their products pay to make them

so. It would seem to be in correspondence with this action that the government should compel employers to pay what is called a living wage to the workers of all trades — this being what is understood by the term a minimum wage — the effect of which would be that the manufacturers in certain trades would charge the customers so much more for the product, and secure customers by the customs duty being increased on imports of the same articles. The reason for such action on the part of the Legislature would be that the public at large should be compelled to pay for *securing to the State lives which would be of value to the same,* and which, without this provision, would be weak and ineffective physically, and needing in old age, or even before that, to be provided for at the public expense. Another mode would be for the Legislature to fix the amount of the minimum wage which any worker should receive, and from returns obtained by its investigators ascertain the number of those who were underpaid, and the amount required to bring them up to the level, paying over to them the balance, and recouping the public purse by taxation — urban, State, or National. This plan would apply to those workers only who, in the various employments, were receiving less than the minimum wages, for there would hardly be any where *all* were paid less than that. There would be one great and evident objection to this procedure, namely, that it would open the door to fraudulent action, the employer getting as many workers as much below the minimum wage as possible, so that they might be cared for at the public expense, that he might be able to undersell his honest competitor by producing his wares at less cost to himself; that should in some way be guarded against.

It may be urged against the whole subject, that minimum wage legislation would make for what is known as paternal government, which is generally in bad odor, but it is a question, since Bellamy's day ("Looking Backward"), whether government may not come to be the regulative of manufacture, trade, commerce and finance, and the President of the United States be elected to that position because he is the best business man in the community. If that is to be so, it would seem that the providing of a minimum wage by means of legislation, is a legitimate and proper procedure; and the only question to be discussed is as to the particular enactment by which the object can best be secured.

STATEMENT OF HERBERT CROLY

I should very much like to answer your letter of October 3d at length. In this letter you ask me to draw up for the Factory Investigation Commission my own views on the question of minimum wage legislation, and to discuss the administration of minimum wage laws.

It is a matter in which I am very much interested and which I would have gladly written to you about at length were I not very much pre-occupied at the present time by the necessary pressure of work connected with starting the New Republic. As it is I shall be obliged to confine myself simply to a general statement of conviction.

I believe heartily and wholly in applying minimum standards to wages in all industries in which an excessive competition or any other demoralizing cause leads to the sweating of the employees. I think it has been already proved that the proper administration of such a law is entirely practicable and has a tendency not merely to raise the standard of wages in the industry, but to place the industry itself on a more wholesome and less precarious basis. Whether or not the legislation undertaken by any State in the American Union should apply a compulsory standard, or should depend, as in the case of Massachusetts, on the effect of public opinion, depends, I think, very largely on local conditions. It will probably be better in the majority of American states to begin with a law which does not depend upon compulsion, but I should regard a law of that kind merely as a step to the adoption of a compulsory standard in the end.

In the case of industries that are well organized the enactment of minimum wage legislation would seem very doubtful. In that event the unions seem quite capable of taking care of the necessary minimum standards. Legislation on behalf of the minimum wage in such industries might have a value in this country which it would not have abroad, in that it would protect union labor from the competition of recently arrived aliens whose standard of living is lower; but I do not think that this consideration is decisive. On the other hand, the fact that the unions themselves seem to be suspicious of minimum wage legislation is, I think, of the utmost importance, and certainly during the present experimental period

it is far better to confine any legislation of this kind to those industries the employees of which are not strong enough to protect themselves from the condition which makes for low standards of living.

STATEMENT OF EDWARD T. DEVINE

Your investigations support what is common knowledge among students of industry, that in many cases current wages are insufficient to enable workers to maintain themselves in health and comfort. Probably all would agree that if such wage earners could by their own efforts secure the increased income essential to their well-being this would be cause for congratulation. Experience and observation show, however, that it is precisely those whose wages are least who are in this respect most helpless. They are caught in a vicious circle, unable to increase their efficiency or their ability for mutual self-defense because of their low wages, and unable to increase their wages because of their comparative inefficiency and lack of capacity for self-defense.

To establish a legal minimum wage will immediately insure increased income for a considerable number; that is to say, for all of those who are really needed in the industry in which they are engaged and whose employers can afford to pay higher wages. Doubtless there will be a certain number — no one knows in advance how many — whose employers can not pay a higher wage, and — what is only another way in the long run of saying the same thing — who are not worth a higher wage at present. These displaced workers will again fall into two principal groups: Those who by a reasonable amount of education and training can be enabled to earn a higher wage, and those who through mental or physical deficiency are incapable of such education and training. The first present a problem of improved education with which the school authorities should quickly cope. The second present a relief problem for which provision would have to be made.

In my opinion, the presence in industry of untrained and unteachable workers, inefficient because of inherent defects, is a great handicap to industry and a most unfair form of competition

in the labor market. Their work is worth little, notwithstanding which they maintain a foothold, partly because employers have no adequate means of knowing whether particular employees are or are not earning the wages paid them.

One great advantage of a minimum wage law is that it would drive a sharp wedge between wage earners who are earning what they receive or more and wage earners whose services are worth little or nothing. The latter are really a social burden, and it is not a disadvantage to have them so recognized, defintely supported as public charges. To support them indirectly by paying them wages which they do not earn is unfair to actual wage earners as well as to employers. One chief advantage of differentiating them from other laborers is that they can then be considered individually, those who are capable of being taught being given the opportunity, and those who are not being brought if necessary, into institutions or colonies where under direction they can at least earn part of their support. For their own sake even these last should have some employment, but it should be of a kind adapted to their capacity.

It would, I think, often be found — and experience in England and elsewhere supports this view — that the higher wage required by a minimum wage law could be paid without actual loss to employer or consumer, the explanation of this apparent paradox being simply that the worker with better nourishment or a higher standard in other respects will do more efficient work, producing more goods or a better quality of goods for which purchasers can well afford to pay the difference. It could not of course be laid down that an indefinite increase of this kind is possible; but it may well be that the entire difference between the low wages now paid in some industries and the amount which would be necessary to maintain health and decent comfort could thus be made up with actual advantage to everybody affected by the change. Even, however, if this should not be the case, and the alternative were found to be a complete disappearance of some branches of industry in which a minimum living wage could not be paid profitably, the community could better afford to see such branches of industry totally disappear than to tolerate the continuance of

under-payment, which means progressive lowering of the standard of living, under-nourishment, excessive over-crowding, or other conditions which make for actual racial degeneracy.

STATEMENT OF SEBA ELDRIDGE

The conditions disclosed by the investigations of the New York State Factory Investigating Commission, and known to students of labor problems long before the Commission was called in existence, are the argument — the unanswerable argument — for a legal minimum wage for women and minors. For no theoretical arguments against wage regulation, however logical or cogent they may be, can remove the fact that tens of thousands of women and children workers in the State do not receive incomes sufficient to purchase the necessaries of life, and the demand for a prompt and efficacious remedy for this appalling condition.

Granted that wage regulation may fetter industry, that it may increase the cost of living, that it may drive many industries from the State, even that it may prejudice the position of organized labor — granted all these things — the condition that confronts us is so serious that measures of relief must be devised, even if at so great a cost.

But it has not been shown that industry suffers by such regulation, that prices are increased by paying labor a living wage, that industries are driven out by minimum wage laws, nor that organized labor is weakened by the fixation of a legal minimum below which wages cannot fall. Any tendency there might be for these results to follow can be anticipated and minimized or counteracted altogether. If the prices of commodities produced by industries underpaying their labor are forced up by forced increases in wages, the result will be rather an equalization of wages as between the better and the more poorly paid labor than any general increase in the cost of living to all labor. This is no more than just and humane, and labor — and capital and the consumer — should not object to bearing each its share of the burden. A legal minimum wage, if there is a gradual growth from the present minimum to the living-wage minimum fixed by law, will only drive such industries

from the State as are by their very nature parasitical, and not any industries that deserve to exist. What will actually happen will be that the sweated industries will have to adapt themselves gradually to the advanced wage scale or in particular instances other industries substituted for them. It will not mean an arrestment of industry nor the driving of capital from this State to another. The legal fixation of a wage minimum cannot prejudice the interests of organized labor; indeed, it will encourage the organization of employees in trades that were not before organized, that they may be adequately represented on the bodies charged with the duty of making wage determinations.

Modern economic theory is all on the side of regulation of this sort. The fact is admitted by all schools of economists that the productive system is a corporate, a collective affair, and must stand or fall as a whole; that the individual worker, or individual capitalist, is helpless before it; and that society, which it serves, must see to it that neither worker nor capitalist is crushed or oppressed by it.

There are arguments that a legal minimum wage is undesirable because indirect methods of attack can accomplish in a better way what wage laws are designed to accomplish. The improvement of hours and conditions of labor; the elevation of standards of housing; the training for a better expenditure of income; the vocational guidance and training of boys and girls; a greater production of wealth through better organization of industry — these and other measures are urged as substitutes for wage regulation. They will, of course, permit the maintenance of higher standards of living, but they cannot be expected, even when they shall have been completely carried out, to deal with the wage or income problem in its entirety. For, however greatly we improve labor and housing conditions, however well we are trained for life and work, however great our production and wealth, the fact will remain until the State does everything for the individual, that we shall all need incomes for the necessities of life we have to procure for ourselves.

And it would seem to be a self-evident truth that every man and every woman who is willing to work and able to work should be provided with work and that they should receive for this work

at least a living wage; and, further, that if willing to work and unable to find work they should receive from some source a living income anyhow. Too, the wage or income paid should be sufficient to permit of saving for the time when the wage-earner is unable to toil for himself and those dependent on him, or if not, provision should be made for this contingency in some other way.

Our aim should be to insure to every family and to every individual for whom we have any measure of responsibility, a living income for every month of the year and every year of their existence. Not only will the legal fixation of a living wage be necessary to the accomplishment of this purpose, but adequate provision — of necessity under State control — must be made for unemployment, sickness, accidents, old age and death. And upon every individual and every class in the community — upon this Commission, upon the Legislature, upon organized labor, upon political parties, upon all the public — rests the responsibility, a responsibility they cannot shirk, of devising measures that will insure to every individual and every family in the community sure and adequate means of maintaining themselves in decency.

To supplement the incomes of working women and minors within this State who now are underfed, or inadequately clothed, or improperly housed, or all these things put together, because their incomes are too low, will require several millions of dollars a year. Only legislation can meet this situation. Relief cannot do it, and could it, it would be a vicious way of meeting the problem. A minimum wage law ten years hence, when the pressure of public opinion for it might be stronger, will not meet the condition that exists today. At the present time there are within the borders of the State several tens of thousands of women and children workers in a condition of partial starvation because they haven't means enough to purchase the food necessary to sustain their strength. Let him who can, suggest a better method than wage regulation of relieving this appalling situation.

STATEMENT OF MARY E. GARDNER

As President of the Consumers' League of Buffalo for the past twelve years I have had ample opportunity to know the conditions

which exist among wage earning women. In Buffalo the average wage per week of the department store workers, not including heads of departments, does not exceed $5.50, and that of factory workers is about the same. Nine dollars has been estimated by us to be a living wage in Buffalo. The deficit is paid either by the workers themselves through lack of nourishment, insufficient clothing, unsanitary and comfortless shelter and lack of recreation, or it is made up by relatives or private or public philanthropy.

The testimony which has been given before you shows that many thousands of the workers of New York State receive less than a living wage. Society cannot afford the sacrifice of health which results from the present industrial conditions among women workers.

I trust your Commission will recommend to the Legislature wage legislation which will be adequate to meet the needs of the workers. A permanent wage commission would seem to be the only adequate means of giving to the unprotected workers a living wage. I believe that not only the direct results of such legislation will be beneficial to society but that it will produce far reaching indirect effects such as decreasing child labor, and by giving to the workers sufficient wage to afford nutritious food and comfortable shelter, the tendency to disease will be largely removed.

STATEMENT OF FLORENCE KELLEY AND JOSEPHINE GOLDMARK, FOR THE NATIONAL CONSUMERS' LEAGUE

In September, 1908, the International Conference of Consumers' Leagues, held in Geneva, Switzerland, discussed at great length Minimum Wage Legislation. Since that time the National Consumers' League has made this legislation the first point in its program.

Our effort has been further stimulated by the action of England, where minimum wage boards were established in four industries in 1910 and extended in 1913 to four other larger and more important ones, the whole coal mining industry of England and Wales having also been brought under this legislation.

In Victoria, Australia, special boards to fix minimum wages have been established since 1896. The success of the boards is

shown by their continuous increase — from five boards in 1896 to 143 boards in 1913, affecting the wages of more than 150,000 persons.

In this country, State commissions have determined minimum wage rates in Oregon, Washington, Massachusetts and Minnesota, and are preparing to do so in California, Colorado, Nebraska and Wisconsin. Commissions of enquiry on the subject have reported in Ohio, Indiana, Louisiana and Connecticut.

The movement for such legislation, therefore, is beyond the stage of mere agitation or discussion. Its usefulness and practicability is proven in various parts of the world.

We are in favor of the creation of a Minimum Wage Commission for the State of New York modeled upon that of Massachusetts, except in the matter of enforcement, to which we recur later on.

We believe that the participation and co-operation of employers, employees and the public affords the best hope of success in solving the problems of each industry in which a large proportion of workers are underpaid.

One principal consideration in favor of this legislation is the cost to the community which follows underpayment of wage earners. It is a matter of common knowledge that wherever industry fails to pay its bill, the community, however indirectly and haltingly, sooner or later makes good the deficit. Sanitoriums for the tuberculous and the melancholy, hospitals for the broken down, poorhouses for the aged, whose wages have permitted no savings, must be supported by public funds.

Our conclusions are based upon a study of facts and statistics as to the wages and cost of living of working women, gathered during the past five years by federal, state and private investigations. The careful intensive studies of your Commission seem to us to confirm and amplify all previous information on these subjects obtained in this country and abroad.

As to the evils of low wages we believe that they are three fold: physical, moral and economic.

The dangers to the health of women from low wages are lack of adequate nourishment and lack of medical care in sickness.

Investigation proves that with insufficient wages, food is necessarily cut down below the level of subsistence. In order to meet unavoidable expenses for lodging and clothing, working women often reduce their diet to the lowest possible point and health inevitably suffers. Yet, paradoxically, the workers who receive the lowest wages are able to spend least on health. Hence they are often without care in sickness, although their need is greatest by reason of low earnings and consequent hardship. Expenditures for medical treatment increase as income increases. In general it is true that the standard of living is fixed by the wages received. With insufficient wages, expenditures for living must be curtailed below the requirements of healthful existence. Overcrowding in housing with the consequent loss of all privacy, the struggle to obtain necessary clothing, and the lack of all legitimate recreation, have been found to result from under-payment.

We are convinced that while the under-payment of women and the consequent struggle to live may not be the primary cause for entering upon an immoral life, it is inevitably one of the most important contributing factors. When wages are too low to supply nourishment and other human needs, temptation is more readily yielded to.

On the economic side, investigation has proved that the wages of women are fixed at present only by supply and demand. Earnings for the same work in a given industry vary from establishment to establishment. The wage is fixed neither by the value of service rendered nor by what the industry can afford. By providing a method to establish a legal minimum wage, the State tends to standardize rates for similar grades of work and to protect women from the exploitation which has been found existing in many occupations.

We believe further that the establishment of a legal minimum wage is an incentive toward correcting one of the greatest hardships of industry, irregularity of employment, through improved organization and better management of business. Obviously regularity or irregularity of work determines the earnings of the workers. Irregularity of employment may involve long periods of enforced idleness owing to seasonal fluctuations with shutdowns in dull seasons and slack trade, or it may mean shorter

periods of " time lost " for various causes. Loss of earnings from seasonal irregularity has been found greatest among the lowest paid workers. They are apt to be dismissed first in slack seasons, or to be employed short time. It has been found that, in many trades, during dull periods the weekly earnings of the lowest paid workers fall below the nominal rate of wages by over 20 per cent. Yet experience has shown the fallacy of the ordinary assumption that high wages necessarily mean high cost of production. In many instances it has been proved that high wages have accompanied low cost of production. This is because the payment of higher wages stimulates the employer to reduce costs by improvements in organization and new inventions, and also to develop and to keep the most efficient workers. On the other hand the payment of an adequate wage stimulates the workers to prove themselves the most efficient.

We believe that the experience of those countries in which minimum wage legislation has been longest in effect, proves the following points:

1. That the operation of the legal minimum wage has not interfered with the commercial development of the country in which it has been established. On the contrary the number of factories and workers and the other well-known indices of commercial prosperity have steadily mounted.

2. That the establishment of a legal minimum wage has resulted in increased wages, especially to the worst paid workers.

3. That the fear lest the minimum might prove also the maximum wage has proved groundless. The usual variation in wages appears to operate after a minimum has been set by law, below which wages may not sink.

4. That the establishment of minimum wage boards has tended towards creating industrial peace. Instead of resorting to strikes and lockouts, employers and employees are brought into co-operative relations.

5. That the establishment of a legal minimum wage not only checks unscrupulous employers but makes it possible for enlightened employers to pay higher wages without fear of underbidding competitors.

In view of the recognized evils of the present low wages paid and the recognized benefits of the operation of wage boards, we urge upon you the recommendation of a bill providing for a minimum wage commission for working women in New York State.

In our opinion the commission should be composed of three persons, one to represent employers, one to represent employees and one a representative of the public. One member of the commission should be a woman. As in the Workmen's Compensation Commission, the Commissioner of Labor should be ex officio a member of the wage commission, without vote.

The commission should be given power to appoint subordinate advisory boards for single trades; and as in Massachusetts and Minnesota, they should be compensated at the same rate as jurors. They should be composed of equal numbers of representatives of employers and of employees and one or more representatives of the people.

The basis of fixing a living wage in any trade should be the necessary cost of living, to maintain the workers in health. In fixing the time at which any given living wage shall go into effect, the commission should be empowered to take into consideration the financial condition of the industry and to distribute the advance in rates over a specific period of time, at the end of which the living wage must be reached.

We are of the opinion that the minimum wage commission should not, as in Massachusetts, be merely recommendatory, but should have power to compel the observance of its orders.

Any worker who is paid less than the wage fixed by the commission after receiving the recommendation of the wage board, should be entitled to recover the full amount due, as measured by the order of the commission.

Any employer violating the provisions of the act should be held guilty of misdemeanor.

STATEMENT OF NORMAN HAPGOOD

New York, in some respects, has lagged behind the most progressive states. Those residents of the Empire State, who have a feeling of citizenship and who like to be proud of their State,

wish to have her show as much public spirit and modern thought as any other part of the country. The minimum wage, although a comparatively new idea, has been sufficiently tested to have its fitness proved. In Australia and New Zealand it began in 1896 in six trades and proved so satisfactory that the number has increased to one hundred and thirty-one trades. In England, it began in 1910, with four, and last year it was increased to eight, several of them very large trades. In this country, four states have commissions which are already making rates. Massachusetts is doing so in the most careful and conservative way, with prolonged and detailed study before imposing a scale on any industry. Oregon, Minnesota and Washington also fixed a scale, but are less interesting to us as they are more sparsely settled and have fewer industries. In all these states women only are affected, and as the need is more urgent in the case of women, it might well be decided in New York to begin with them. Besides those four, there are four other states in which commissions exist, but have not yet used their power of establishing rates; namely, Colorado, California, Nebraska and Wisconsin. Besides New York, Indiana and Michigan have commissions of inquiry.

I think there is no doubt in the minds of the best students that wages, under our complex modern life, must be treated as having a social bearing, an influence on the whole community, and therefore as coming within the proper scope of public regulation. The effect of insufficient wages on the health and morals of the employees is to demoralize them, lower the qualities of the next generation and thereby affect the total strength of the nation. Everybody who is employable, up to a necessary standard of efficiency, should receive a wage consistent with healthy living, and everybody who is not up to that standard, or who cannot be brought up to it, should be cared for in an entirely different manner.

STATEMENT OF CHARLES R. HENDERSON

I can hardly do justice to the subject in a brief letter.

I assume that your Commission has studied the facts relating to the need for a minimum wage law. These facts have been

summarized, as you know, very well in the little book of Mr. F. H. Streightoff, *The Standard of Living Among the Industrial People of America,* and in the numerous documents and books cited by him. It seems to me that no one can study these facts carefully without coming to the conclusion that a vast number of our industrious wage earners are compelled to live below a decent home standard. It is also perfectly obvious that at the same time there is an enormous and unfair surplus of production which goes to rent, interest, profits, payment for management, etc. J. A. Hobson in his recent book on *Work and Wealth* has discussed this point thoroughly. If this proposition is established, it is logical to believe that a much greater measure of social direction and control must be accepted. Recently one of our distinguished railway presidents made this point very strongly in a discussion of the situation of the railroads, but his argument would appeal with even more force to many of the other monopolistic public service industries.

So far as the theory of the minimum wage is concerned, that is pretty well outlined in Professor Ryan's book *The Minimum Wage.*

I am assuming also, that you are familiar with the experiments already made in different countries. They are confessedly in the stage of experiment and we must expect a great many failures or disappointments — the honest price to be paid for progress. Certainly the present situation is intolerable.

It has been objected that there are many workers who cannot earn the minimum wage and would, therefore, be thrown out of employment. This objection is often urged even by managers of industries which are deriving enormous profits from families who are partly supported by charity. Such industries are properly called parasites and in some cases their existence is a menace to the public health and morals. An industry that must build up a great part of its profits out of the public charity fund is presumably anti-social and not a contribution to economic wealth. It is certainly an enemy to the higher interests of civilized beings. But the objection has little weight since the boards which fix and modify the minimum wage rate are quite competent to make the necessary adjustments for the aged, the crippled and the young.

It has been said that we ought not to have minimum wage laws, but should rather educate and train young people so that they can earn higher wages. We all believe in vocational training and guidance in these days, and that conviction needs no argument here, but it seems to some of us that the minimum wage boards would bring the necessity for industrial training and guidance sharply before the public opinion and compel attention to it in individual cases. At present we have no such direct and continuous agency for discovering this need and providing for it. Furthermore, it is not clear that better training would in all cases secure better wages. It is notorious that a vast number of very well trained persons are miserably paid and are very insecure in their tenure of employment. It is not, as some represent, a choice between vocational training and minimum wage boards They are both essential elements in any reasonable system.

STATEMENT OF FREDERIC C. HOWE

Society has no right to accept the services of any of its members at less than a living wage. We have no right to enjoy the fruits of others' labors if that necessitates a sacrifice of anything that life should mean to the worker. I owe, we all owe an unpaid debt to those who work for less than a decent standard, and society should, by compulsory legislation, protect the worker from those who refuse to abide by such a standard of fitness. I hold this to be as binding a moral obligation as any obligation now sanctioned or enforced by law.

This is especially true of women and children. Society itself has destroyed their former status, their former security. Employers are benefited by the residuum of unemployed labor, whose wages are sacrificed by those out of employment. This establishes the wage and wages should not be fixed by the hunger of those out of a job; they should be fixed by the contributions to wealth which labor makes. This is the only ethical basis for wage enumeration; it should be the legal standard as well.

As to the administrative side of this question, I cannot speak with much definiteness. Clearly the wage scale ought not to be

fixed by law. It should be fixed by an administrative commission with power to investigate individual conditions, and establish the wage accordingly. The scale should be flexible, not static; it should change with the cost of living, with changing conditions. This I believe is the theory of the Washington Statute. It is the theory on which, I understand, the industrial commission is organized.

Criticisms of the minimum wage are based on the assumption that the wage would be fixed by law. Many of these criticisms vanish with the substitution of administrative rather than legislative control.

I do not believe that minimum wage legislation will solve the labor question. To me that is only a half-way measure. It is only a partial recognization of justice. I believe that minimum wage legislation would not be necessary in a society that collected all its needs from its own treasure house; that is from the land values which society itself creates. And were we to tax all land into use, were we to put an end to the withholding of resources from labor, then labor would be at an advantage in the struggle, and would automatically receive the just return for its services. Under land values taxation, the advantage which capital now enjoys in the struggle would be reversed, and labor would be in a position to demand and receive what it produced.

STATEMENT OF JOHN A. KINGSBURY

I want to go on record as one strongly in favor of minimum wage legislation. It has been in force in Washington, Oregon, Minnesota and Massachusetts, long enough to show that the machinery is workable in this country, though the Commissions are too recent to have produced conspicuous results. The point is that the method works.

We have, from year to year, steadily increasing numbers of dependent persons in my department, not suddenly this year more than last, but steadily increasing every year.

Much of this dependence is unquestionably due to underpay, particularly of women and girls. The consequences of underpay

are so obvious as hardly to need enumerating, such as underfeeding, comfortless, unwholesome dwelling accommodations, insufficient clothing. Pneumonia running into tuberculosis has been a wholesale incident of winter and spring among wage earners ever since Colonel Waring pointed it out years ago.

The burden of all the consequences of underpay finally gets upon the city. We have the hospitals to maintain including the tuberculosis sanatoria and clinics, and the wards for the insane and the melancholy, besides all these patients in the general wards, the primary cause of whose presence in the hospitals is debility. No one disputes that poverty is a continuing predisposing cause of all this chronic and acute illness. What we need to do is to try to stop all that part of it which is due to underpay.

The Children's Bureau of this department carries another heavy burden which should be placed upon the parents. At the present time we know in a general way that many of the parents are themselves victims of underpay. A minimum wage commission should in a few years relieve the Bureau of a considerable part of its work by leveling up the lowest grades of earnings.

The dependent prematurely aged now supported by the city are certainly in some measure traceable to precarious underpaid employment. It behooves us to apply without delay a method which other countries, and several of our own States, are already finding useful for diminishing the extent of suffering of this kind, and the financial burdens it entails upon public and private charity.

Why should not our industries pay for themselves? Why should they be allowed to go on longer creating these burdens? What possible ground is there for New York State's lagging behind Massachusetts?

You ask as to the difficulties of administration. They appear to be in process of getting successfully overcome in the States mentioned, which have permanent Commissions empowered to investigate wages and to create wage boards within the different industries. These wage boards are composed of representatives of employers, employees and the general public. In this way the people are assured of complete fairness, by utilizing the knowl-

edge and experience of all concerned to guide the Commission in determining rates.

I hope the record of the Factory Investigating Commission's accomplishments may be crowned by the creation, in 1915, of a Minimum Wage Commission. New York City's Department of Charities needs such reinforcement and relief.

STATEMENT OF BRUNO LASKER

1. *Attitude of Trade Unions*

The Trade Union movement in Great Britain is throughout favorable to Minimum Wage Legislation. Some of the doubts which existed prior to the enactment of the Trade Boards Act of 1909 have since been dispelled. The original promoters of minimum wage legislation, namely, the Anti-Sweating League, have done and are doing everything in their power to organize the workers in the respective industries and to see to it that they are effectively represented on the wage boards. Most of the trades so far scheduled are trades in which there are a large number of home workers, chiefly women, who previously to the formation of the trade board have in most cases been unorganized. Owing to the efforts of the Anti-Sweating League and the Women's Labor League, sweated workers are now efficiently organized and led for the purpose of the wage boards and, in some cases which have come to my knowledge, at any rate, are as well represented as the employers. It should be noted that the trade union movement in Great Britain differs somewhat from the American, and that the efforts of the national trade union organization are not as much as those of the American Federation of Labor directed in the interests of the more skilled and better paid classes of artisans. The British trade union movement has frequently made great sacrifices on behalf of the unskilled and sweated workers, and is looking upon legislative questions just as much from their point of view as that of the most highly paid.

2. *The objection that the minimum wage will tend to become a standard or maximum wage*

It is too early as yet to judge the ultimate effects of minimum wage legislation in Great Britain; but so far there have been no signs at all that the declaration of a minimum wage in a given trade hinders the general upward tendency of wages. This may possibly be due chiefly to the fact that British legislation has been limited definitely to the case of the sweated worker and that it has not, as has Australian legislation, affected the wages of large numbers of men. Also the scheduling of new trades has coincided with general good trade. In the scheduled trades, wages during the last few years seem to have increased all around, that is, not only in those branches to which the law applies. On the whole, it may be said that the determination of minimum wage acts very much in the same way as the declaration of a standard rate of wages by a trade union; both tend to become the normal rather than the minimum.

3. *Difficulties of enforcement*

The number of cases brought into court by the inspectors of the Board of Trade has not been large. It is probable that at first there was a certain amount of evasion, but this cannot have been large, owing to the vigilance of the whole trade union movement. The reason why the British legislation does not lead to evasion is chiefly that the wage determined upon in each case is not imposed upon the trade from without, but is the result of free discussion between employers and employees. When, after weeks of haggling between the two parties, a schedule of minimum wages is at last fixed, it usually represents a compromise, and loyal adherence to it is expected and given. I am informed by men who are in close touch with the working of the act, that its enforcement would probably become more difficult if it were rapidly applied to a great number of trades representing a considerable variety of conditions. Only four trades were scheduled in the first instance, and four have been scheduled this year (1914), the total number of workers affected being about 400,000. Many reformers believe that at the present rate of progress it would take far too long to secure a living wage for the great

majority of sweated workers. But their demand for more rapid progress is coupled with proposals for changes in the administrative machinery. At present, for instance, there is considerable delay owing to the fact that the legal department of the Board of Trade is separate from the Trade Board Department. It would take too long, with this system, to bring into court large numbers of evasions.

4. *Displacement of labor*

As far as I have been able to find out, down to the outbreak of the war, the state of employment in each of the scheduled trades was higher than before the enactment and, as a matter of common knowledge, each of the industries was sharing the general boom through which we have been passing. Employers' organizations appear to have used this law to strengthen their organizations and to bring in large numbers of small employers who were previously standing out. These men, undercapitalized, using inadequate and slip-shod methods of production, and underpaying their workers, were often also undercutting prices; and although unable to compete successfully with the larger and more modern establishments in their branch of industry, they were a constant source of irritation. It appears that the necessity of having their interests represented on the Wage Board, has driven these small employers in large numbers into their trade organizations; and in consequence, the trade papers, which one would expect to be most hostile to the act, are as a matter of fact accepting it with very good grace. The act itself provides for exemptions in the case of slow and inefficient workers. If the scheduling of the trades had coincided with a period of industrial depression it is possible that one would have heard more of the loss of employment on the part of the subnormal workers, but under the circumstances the provisions in the law were quite sufficient to prevent any considerable hardships from arising. It is important to note that none of the trades scheduled in 1909 are protected against foreign competition.

5. *Basis for calculation of minimum wage*

The act does not lay down any hard and fast rules concerning the considerations upon which the determination of minimum

wages should be based. It is interesting to observe that in spite of this absence of a definite rule, the determinations of the Wage Boards in practice approximate very nearly a standard which scientific theorists regard as a bare "living" wage. Although usually piece rates, they work out, under normal conditions and with customary hours of work in the respective trades, as weekly income sufficient in the case of adult women to maintain a bare but independent existence; and sufficient, in the case of adult men, to maintain in a state of physical efficiency, though extremely frugal comfort, a family of normal size. For juvenile workers the minimum rates of wages are graded according to age.

Although obviously far from satisfying the demands of organized labor, the decisions of the Wage Boards so far published seem to conform with the immediate demand of public opinion for the abolition of "sweating." The rise of wages in each of the occupations concerned has been substantial, in some cases amounting to thirty and fifty per cent. of the wage previously paid, and in others with a more or less agreed assumption of revision and additional rises in the near future.

The cost of living in each case has been taken into consideration, but it has neither been worked out scientifically or been accepted as the only factor upon which to rest the decision.

STATEMENT OF OWEN R. LOVEJOY

I can state in few words my opinion about minimum wage legislation.

1. (a) I believe in such legislation on the ground that it is the duty of the State to use its power to protect the health and safety of its citizens. A sub-normal wage is as direct a menace to both health and safety as sub-normal sanitary standards.

(b) Not only the employee but the employer deserves protection against the short-sighted policy of low wages. The competition of those who under-pay is a direct and subtle snare in the way of the employer who believes in and seeks to practice justice toward his employees.

(c) A minimum wage will directly tend to absorb in industry

that part of the army of unemployed who are able and efficient because the inefficient will be discarded more readily when their inability to earn the wages specified is demonstrated. Although the State may fix a minimum wage, it obviously cannot force an employer to engage the services of any given worker, therefore a more discriminating policy will follow.

This consideration may appear as an objection to the minimum wage because of philanthropic interest in those who are thrown out of positions. The answer is that society has to bear the burden of these anyway, and it may be well be borne direct as through the devious channels that now undertake to care for the incompetent and unemployable.

2. As to the extent to which a minimum wage law should be enacted. In my judgment, the first consideration should be given to those industries in which the labor of women and children predominates, since they are the industries that end most directly to fall below a reasonable wage standard. But it should also include industries employing men where investigation proves that the wage scale does not afford a reasonable standard of living.

3. I believe the law should provide for a minimum wage commission representing employers, employes and the public, and that this commission should have power to appoint minimum wage boards for the different industries. I am opposed to any law which would seek to fix a flat minimum wage.

Such a plan would be undemocratic and out of harmony with our American ideas of self-government. Furthermore, it might at times be oppressive either upon the employers or the employees depending upon conditions in industry and upon actual cost of living.

Neither do I believe a State official should be appointed with power to fix a minimum wage. This would be conferring upon a single individual more than his intelligence or character could well bear, and wages would be arbitrarily fixed according to his judgment or bias, and without due regard for all parties concerned. The commission plan is, in my judgment, the only defensible plan, and offers possibility of endless readjustments to fit into the varying conditions among industries, and the constant fluctuations in any given industry.

STATEMENT OF GEORGE R. LUNN

I will outline briefly some of the reasons why I think minimum wage laws should be enacted in this State. I start with the premise that the State in all legislation should have as its controlling aim the welfare of the whole people. I also hold that laws are nothing more than standards for educating the people. In the interest of the whole people no particular group should be allowed to be exploited, but so long as exploitation is part of our system, definite regulation is essential for the common good.

A minimum wage for men and women fixes a definite standard, below which no greedy employer is allowed to go. Failure to enact minimum wage legislation leaves the manufacturer and other employers free to exploit the men and women to such a point as to ultimately endanger the whole State.

The fact that minimum wage legislation has proved to be a success in other countries is a strong reason why New York State should follow in line with the trend toward advance legislation.

We would gain a great deal if we would continually realize that wherever inadequate wages are paid, the State is the ultimate loser. The persons underpaid must live or slowly starve. If they slowly starve, that is, are continually physically unfit by reason of low wages, they deteriorate absolutely and the State is losing in the quality of its people to that extent. Some day we will realize that the chief asset of the State is the quality of its people. The suggestion I have here made will have more weight then than now. If a person is determined to exist and not slowly starve, some one else will have to supply the deficiency. In the case of girls in department stores, for instance, the chance is that their parents have to make up this difference, which is equivalent to the State allowing the employer to exploit not only the girl, but the family as well.

The two or three thoughts I have outlined suggest in brief the justice of establishing a minimum wage. Industrial conditions in our country are at the present time decidedly threatening. Ameliorative laws must be passed as a mere matter of safety, if nothing more. When the higher motive of justice dominates all legislation, then will the common good of the whole people be considered of paramount importance.

I trust the Commission will be able to make some definite recommendations for remedial legislation of a fundamental character. We are traveling very rapidly just now toward great changes in our ideas regarding industrial affairs. What we need just now is not momentum, but steering.

STATEMENT OF D. J. MCMAHON

Cause of Poverty

The causes which lead to poverty and keep so many in its toils dependent for subsistence upon charity have for years been classified under the two heads of "Misfortune" and "Misconduct." Latterly, however, with deeper study of the items which have been classed under "Misfortune" a third division has been made of "Industrial Causes." Under this head comes unemployment, inefficiency, and insufficient wage for labor. Under this caption comes an immense army who have hitherto fallen upon the efforts of charitable workers to keep.

The study, however, of these three sub-divisions shows that their alleviation belongs to justice rather than charity. They have so many phases that the solution and settlement in justice must be left to the State. Being a question of justice and consequently of dealings with others in so many fields of activity the social worker must ask the State to act for settlement of the improper adjustments that have resulted in so much distress. The public is a third party interested in all these problems between master and man and no longer can stand disinterested in these problems of public welfare.

The State has already done much in this line and the history of this Factory Investigating Commission has shown how many are the needs to bring about a true equilibrium.

As the years advance the study of many causes of dependency has shown that the burdens placed upon charitable shoulders should be transferred to commerce. The sickness and consequent dependency which long hours and other such causes have thrown upon charity have found in great part the rightful place for adjustment.

A gratifying advance has been made towards the realization of human standards in recent years and we are drawing away gradually from forming that sodden mass of deep set poverty existing, as has been pictured to us in parts of London and toward which we were surely approaching owing to the want of exercise in full justice.

The laws which related to child labor, safety and sanitation, to shorter work hours for men and women, to remove the dangers in the poisonous trades, and to the highly prized workmen's compensation, have won plaudits from all classes and we trust the day will not be long distant when that great prize of the minimum wage shall be established and thus place upon the shoulders of justice what charity has had so long to bear.

The other sub-divisions named, unemployment and inefficiency, have had attention drawn to them and with time a proper solution will be obtained. A hard winter is drawn for the charity societies this year owing to the war, but how much will it be relieved if this measure of minimum wage becomes operative! Not only for the present, but for long years to come will it be a boon.

It has long been a crying evil that charity should have aided the selfishness of the few who have prevented justice from its rightful share, for, in depriving the workers of proper wage, the difference was either kept in whole or part as profit or perhaps the product was sold so cheaply that the public gained without knowing the injustice inflicted. Your factory inspection commission is entitled to the greatest sentiments of respect and regard for the thirty-two splendid measures that have been so far enacted for the benefit of the workers and must win the veneration and greatest love when in this Empire State the minimum wage shall be adopted through your endeavors and make so many thousands free from charity or evil doing and raise their heads because of the justice done them in making them feel that their personal dignity has been recognized.

Many blessings have been established and many more are still required that all should gain their living from the bounty of the earth, and keep up their true place among men. But these and

the greater benefit of stability in their livelihoods await the passage of this minimum wage which will be a generous porter to open all of them to a grateful people.

Extent

The extent of the evils to which the absence of the minimum wage reaches is a wide area to be measured only by your efforts. In its intensity there is a wholesale poverty, sickness, inefficiency, despondency, crime open and private, degradation and constant revolting against authority even to the growth of anarchy and rebellion.

It forms the soil from which Socialism in its wildest forms will breed with the years until public safety shall be in the balance. These effects will surely come if its extension be not checked by proper authority. It is the result of unchecked selfishness which looks only to the present profit.

We know that wages vary with sex, age and location, but according to Nearing—"Wages in the United States"—one-half of our adult males are receiving less than $500 a year and that 60 per cent. of adult females are receiving less than $325 a year. Your own investigations show how far from a suited wage is the return to women and children for their labor.

The greatest field of unrighteous wage is in the retail trade stores, be they of the larger or smaller type, in the work which is done either in tenement house or in the sweat shop or in the factory or mill. There are numbers of places which minimize the employment of men substituting boys and girls at less than living wages. To the casual observer the evils do not appear because of youth, of irresponsibility on one side and the defencelessness of the employees on the other.

It has been established that there is a lack of standards for the regulation of wages and a consequent reduction for the profit of the master without much regard to the fact that tuberculosis and other diseases incident to the poorly nourished worker are rife among these workers who are seeking help from hospitals, and charitable care.

With the curtailing of work in the tenement a rich field of sickness and starvation has been cut off. There was the under-

paid worker engaged day and night in spinning out the thread of life for a most miserable existence and to the unfailing detriment of the future generations coming therefrom.

These poor people because of their inability to unite on a stable basis have borne this evil and would continue to eke out their ignoble existence did not our State step in to aid them. The difference in language, race, religion, sex and age has ever prevented them from joining and keeping together for their protection and advancement. All hail to your worthy Commission for not only uncovering but exposing this unholy evil. We have had it ever since Hood's "Song of the Shirt," and will continue until with the love of justice and humanity you will pass the proper legislation.

Not only from these thousands of workers will your praise be sounded, but the general public will be glad to co-operate in bringing happiness to these exploited workers. It needs but the explanation and those not interested in the profits will be glad to see justice done.

Employers

Every step along the line of helping these workers whether in the matter of hours, of sanitation, has been ever met by the determined opposition of employers and for many years have they retarded the advances so far made. More bitterly intense is likely to be their resentment against this betterment measure.

Many are opposed because they think it will not be profitable to themselves. If, indeed, they have been making profits out of the undue wearing out of the flesh and blood of men and women, should they not in all justice be stopped in such unrighteous ways.

Many will oppose such advance for even if the raise would make more efficient workers or would increase the output, they will demur against the extra outlay necessary for this advance. They would keep their industries in their sub-normal conditions even though their names would have to be at the head of lists of charitable donors, to meet the consequences.

The minimum wage will mean a reorganization in the methods of labor in these industries that will lead to the attainment of

greater efficiency and will effectually banish from tenement homes the industries that now are stealthily active and put them under the saving laws operative in store and factory.

The sentiment and wish of those who are profitably engaged in the present "statu quo" must rightly submit to the popular sentiment. There is a power higher than profits, there is a force stronger than might in our land and that is *Right*. The public is interested and before it the opposing individual must succumb and yield to the majority at least in action.

Public Sentiment

It has taken some time to awaken the public to the injustice and inhumanity of the present conditions. The cry of the Socialists has been loud in the land and the knowledge of the evil has been well spread. It is not, however, enough to enlighten the intellect; there must also be some additional power to move the will to action and still more to concerted action. We may be touched by the injuries that have been the consequence, but for the steady persevering action to remove the evil more than mere theoretic knowledge is demanded. The feelings must be moved and we can see by general action that the righteous movement is widely spread.

Through the constant cry of the Socialist, through the silent wail of the underpaid, the sentiment has reached the public and to win popular favor the satisfaction of this demand for a minimum wage and other accompaniments of such legislation have been made the banner cry of the new Progressive party, looking forward for its own interests.

Since this law was passed in the English Parliament in 1910, the agitation has been more active in our land so that three bills have been introduced in Congress to make a federal law establishing the minimum wage at least for women. I do not know how many States are studying the question through Commissions. It is stated that seven States have passed the matter into some sort of trial and that five at least have adopted the matter entirely.

The subject of wages has been hitherto considered too sacred to be touched by the legislator. The other accompaniments, such

as the daily hours, the sanitary condition of shops appeared to be within the province of their powers, but that sacred regard has been cast aside when we have such States as Massachusetts and California passing the law of adequate, compulsory and minimum wage laws for men and women.

Our economic phase of life in early times was dominated much by our political existence, and freedom in all things was the thought that ruled at the period when the Constitution was adopted and this was almost coeval with the change to factory and shop from the homes which brought about the development of the present system of capital and labor. Our economic life in relation to the State from the beginning was naturally in accord with the prevailing view that individual and social welfare was best protected by competition so that freedom should prevail throughout.

Competition under the "laissez faire" policy continued until now and the State did not interfere except to prevent fraud and theft. This system has been found wanting on many sides and if left still unchecked by the legislature we know not how near to slavery and inhumanity on one side or anarchy and revolution on the other would be the result. If all men were truly equal in perfect mental and moral make up, the principle might indeed prevail, but we have seen that the inhumanity of man to man will show itself when the spirit of selfishness becomes dominant.

If we have justly passed laws regulating the hours of work, the safety and sanitation in work, in regard to monopoly, etc., why should we hesitate to prevent by legislation the hardships, and injuries and degradation which are the consequences of the improper wages?

Wages in the past have been regulated by authorities such as the gilds or by the justices to whom such subjects were referred by them. Why then should the legislature hesitate to reassume this duty that belonged to it prior to the silent assumption of the laissez faire policy without any right. "The powers not granted in the Constitution to the United States nor prohibited to the States are reserved to the States." Surely the prevention of evils presented by the improper wages and the advancement of the public welfare of so many citizens demands such action. The

laissez faire policy in this connection has resulted disastrously and has no reason for further continuance.

No longer will labor be considered a commodity to be purchased at the lowest price but that beside the commercial element there is the personal element so well elaborated by Pope Leo XIII that requires the minimum wage.

The sacred quality of man's personality since he comes from the hand of God requires his right to subsistence. This right goes further to a reasonable life for his dignity, personality, demand that he shall live as a man and not as an animal. His faculties must be developed and his human nature must have play to advance according to ability. It is a natural right and like all primitive rights comes with nature and does not prove its existence, but shows its demands.

The right is not equal in extension in all for it is measured by the individual powers and needs, though all be equal in personal dignity. The condition is attached ordinarily that these rights shall have full play when the concomitant duty of labor is properly fulfilled, for "in the sweat of thy face must thou eat thy bread." This labor must then receive that compensation by earliest right, which will give to man the chance of filling his place among men in decent order.

This reasoning applies to women and children who are forced to work without detriment to themselves. Since they live by their labor it should ensure them a decent living. Children are usually in their family and as such are considered in apportioning their share of wages. There should be some standard established for their proper wage. When they are engaged in piece work it can be easily done, but when the work has not such a definite result it should have nevertheless a fixed standard of a just and equitable wage — never lower than the minimum wage.

Courts

The passage of such legislation is not only approved by public opinion, but has the authority of many judicial opinions in its favor. Some States have already passed it to the law books and the court decisions in its favor can be found in many others.

Thus in the new State of Washington the statute reads: "The welfare of the State of Washington demands that women and minors be protected from conditions of labor which have a pernicious effect upon their health and morals. The State of Washington therefore exercising herein its police power and sovereignty declares that *inadequate wages* and unsanitary conditions of labor exert such pernicious effect, etc., etc." Other States of older ages could be quoted in similar strains.

From the action of the Supreme Court of Illinois in two different cases, we can see how the reading of the judges has varied.

In 1895 the judges forbade all judicial restrictions upon the working hours of women and would not consider the sex in matter of working. On the same bench in 1909 the judges limited women's working hours to ten in twenty-four and distinctly regarded the sex in work. This shows the general tendency to read differently in the light of events the right of so-called free contract and to recognize that the public welfare as a third party in the contract is to be considered. Society is formed for the welfare of its individual members and when these do not receive proper treatment or just recognition, then will the past reading of the law be changed into one more suitable to the present conditions. In the past the law has enforced the sanctity of free right of contract but a wider discretion is given by the legislatures than this strict interpretation.

The liberal interpretation is being gradually brought about not by any constitutional principle, but by shifting the emphasis from one element to another. Individual freedom of contract subject to modification for the general good is now the reading of this law. The courts used to lay stress on the individual freedom of contract part, now the stress is being laid more and more on the public welfare part.

This change is clearly seen in the two decisions mentioned above where the question of contract and women's work is decided in this different manner. The difference is very clear as each is drawn out to the fullest.

The Supreme Court of Washington, D. C., in some instances in the past five years has given its verdict according to this larger view. In sustaining the ten-hour working day for women in

Oregon, it states, "In the early history of the law when employments were few and simple, the relative conditions of the citizen and the State were different and many employments and uses which were then considered inalienable rights have since from the very necessity of changed conditions been subjected to legislative control, restriction and restraint. The changing conditions of society have made an imperative call upon the State for the exercise of these additional powers and the welfare of society demands that the State should assume these powers, and it is the duty of the court to sustain them whenever it is found that they are based upon the idea of the promotion and protection of society."

The New York legislature in accordance with the requests of your Commission has passed into effect many laws looking to the benefit of working people and should now cap the arch of public welfare with this law of the minimum wage and thus give to so many individuals the chance of decent life and build up the welfare of these citizens.

Objections without doubt will be urged against such measure, but in the light of the greater good and public welfare which according to legal opinions must have first place, those whose profits are affected may be put aside.

Wage Boards

The passage of the law establishing the minimum wage requires the further measure of some board by which the law will be carried into effect. The working people who are to be chiefly benefited by this wage cannot for a long period be brought into unions to see to its proper enforcement. Hence some wage board must be established. This, however, will not be so serious a matter as our State Labor Department has had more difficult propositions to handle during the past years.

Massachusetts gives us an example in this matter and from Australia can we learn, for such a board has been for many years in action there. This is a board composed of employers and employees in a trade together with some disinterested people who would represent the general public or some representative from our Labor Department which has more experience in such matter,

as in its Bureau of Arbitration, etc. No employer would be prevented from paying more than the wages fixed by the Board but could not pay less under penalty of the law.

The success in Australia shows its possibility for at the beginning there were only six boards, but the number steadily increased until it has reached forty and some of these have been introduced by the action of the employers.

Something of the very same system has been established in England to carry out the wage law passed in 1910. There, however, its greatest operations are among the home trades or tenement house work where it is most needed.

There is in both places a Court of Appeals for the full working out of the system by which this board's decisions may be revised under certain proper conditions.

This wage board could extend its sway to all occupations even in those that are banded into trade unions. In Massachusetts these have taken the initiative in obtaining such a board. Where there is no trade union or banding together of the employees, there will be some difficulty in the start. As in fixing the proper rate the public must come in between the employer and the workman so in maintaining the law the public should have its representative. This, however, is obtained in placing a representative of the Labor Department as stated above who would thus be qualified as a representative of the State and an expert of labor matters.

The board would naturally take charge of fixing the status of those who are inefficient from age or sickness and distributing them among the employers in some equitable measure and permit a wage proportionate to their handicap.

Finally, even if some of the workers should be thrown out of work it will force us to meet this proposition of unemployment in a more comprehensive way. We must come to it sooner or later and the sooner the better, for at all times fully 12 to 15 per cent. of workers are unemployed from industrial or personal reasons. Our public labor exchanges must be made efficient enough to adjust adequately the supply and demand in place and time, and to establish colonies for those who can and those who cannot fit themselves for proper places in the industrial world.

JOINT STATEMENT OF MAUD NATHAN AND NELLE SWARTZ

The Consumers' League of the City of New York strongly endorses the creation of a minimum wage commission.

Those of us who have been active in the work of relief societies know that low wages is one of the economic causes of poverty. From recent studies made by the Consumers' League, we know that not only in New York City, but all over the State, the health and efficiency of some of the working women and girls is being undermined for lack of proper food, recreation and proper living quarters.

We believe a Commission in New York State should be organized similar to the one in Massachusetts, with wage boards composed of representatives of employers, employees and the public. We consider that these wage boards should take up one industry at a time, studying it intensively, and that a wage rate should be decided for each particular industry.

We feel that a Commission organized in such a way is the only fair method to determine wages:

First, because it will give to underpaid and unskilled women and girls a voice in deciding what compensation they shall receive.

Second, because it will also bring about a better understanding between the workers, the employers, and the community, each factor realizing the difficulties which beset the others; all will be correspondingly more tolerant.

Minimum wage legislation is no mere experiment. A permanent Minimum Wage Commission has for eighteen years successfully regulated the wage of depressed trades in Australia, and in our own country four states have such Commissions at work and wage rates established by them are now in force. In Oregon the Supreme Court has upheld the minimum wage law as constitutional.

Never was such legislation more needed than now. The war is the excuse for more economy and retrenchment. This, sooner or later, always means smaller wages for women and girls and for unskilled, unorganized men. The only effective defense of this lowered standard is a Minimum Wage Commission.

We, therefore, earnestly urge that the Factory Investigating Commission, which has maintained such a splendid record in the

past, recommend to the Legislature of 1915 the creation of a permanent Minimum Wage Commission, thus placing New York in line with other progressive States.

STATEMENT OF HARRY ALLEN OVERSTREET

Minimum wage legislation differs nowise in principle from the various types of legislation — factory acts, acts governing the maximum hours of labor, acts regarding women and child labor — that have in recent years become broadly recognized as economically, socially and morally justifiable. In all these cases the principle involved is the right, nay the obligation of society to set a *civilization-standard* below which economic processes must not fall. When this type of legislation was first broached early in the nineteenth century, the panic cry was raised that economic enterprises could not stand the strain; that if they were required to furnish well ventilated factories, guarded machinery, shorter hours for workers, etc., they would be compelled to go out of business. In most cases the whole matter ended with the cry. In many instances, dividends actually grew larger with the growing efficiency of labor and the increased effectiveness of business organization. In the few cases however where enterprises did go under by reason of the added requirements, it was easily recognized that their elimination was for the public good. They were parasitic enterprises living off the body of labor without giving in return that which would enable labor to sustain itself at its full power.

The vogue of such regulative legislation during the past century indicates without any doubt that a profound conclusion has been reached, namely, that economic processes, left to themselves, are incapable of setting an adequate civilization-standard. Left to themselves economic processes tend to depress standards. In strict logic, this conclusion applies to all aspects of economic enterprise, not only to conditions of sanitation and hours of labor but to the wage paid to workers. There is no more reason to believe that economic enterprises left to themselves will set a wage standard that is adequate than that they will set a sanitary or a

leisure standard. If regulation in the latter respect is deemed (as it now is) absolutely essential, regulation in the former respect is equally necessary.

In strict principle, then, minimum wage legislation is wholly of a piece with all that type of industrial legislation which we have come to regard as indispensable in a well ordered state. It differs, if at all, simply in the practical difficulties with which it is confronted. These difficulties, however, at one time apparently insuperable, have already in large measure been overcome. The experience of Australasia and Great Britain already goes to show that the two requisites of minimum wage legislation, (1) the determination of the minimum living needs of (a) a single person, and (b) of a family provider; and (2) the translation of these into money income for various localities have already been met. The machinery for accomplishing this is indeed complex but not unwieldy,— a central trade board and local trade boards organized on the principle that all parties to the issue — employer, employee, and consumer — shall be represented.

The first requisite of all minimum wage legislation is the undeviating acceptance of the principle that such wage is to be estimated on the basis of what is sufficient to maintain the worker in healthy mental and physical life and not on what the trade can bear. This is imperative. Otherwise we return to the old process of letting the trade set the standard for civilization instead of advancing to the new principle of having civilization set the standard for the trade.

One of the difficulties which confronts minimum wage legislation in the United States is the fact that such legislation must be undertaken by the separate states. To be wholly successful and wholly fair minimum wage legislation must be national, else employers in a high grade state are subjected to the unfair competition of men in a neighboring low grade state. This is a difficulty however which has confronted us in all industrial reform — in child labor legislation particularly. It points to the necessity for a radical reconstruction of our machinery for national legislation in matters industrial.

One of the most perplexing of the problems that confronts minimum wage legislation is the problem of the relative wage of

men and women. Shall the wage of men and women working in the same industry and under the same conditions be equal? The problem is one that is far from solution. But under our present conditions (conditions that promise radical change however, particularly as to the economic position of the housewife) this may be said: men are normally the supporters of families while women are not. Although there are exceptions to this — the bachelor and the widow, the one receiving too much, the other far too little — the rule must hold good for the determination of the minimum wage. Men must normally be accorded a greater wage than women. Nor is this solely for the protection of the men. As a matter of fact, the economic effect of equal wage is on the one hand to drive out women from an industry in favor of men, and on the other hand, so to depress the wage that even women derive small if any benefit.

The minimum wage operates as the effective corrector of that most distressing social blunder, the employment of girls who are partially supported by their parents. Such employment works serious disaster to the thousands of girls for whom there is no such partial support and who by reason of the unfair competition of their sisters are compelled to accept a less than living wage.

One of the greatest advantages of a minimum wage law, finally, lies in the nature of the boards (central and local) necessary to carry out its provisions. These boards are properly composed of men and women representing all the interests at stake, from that of the lowest paid employee to that of the most affluent employer. The work of such boards entails co-operative investigation, discussion, and a constant give and take that are of finest moment for a deeper and more sympathetic understanding of the whole perplexing problem of business and industrial life.

STATEMENT OF SAMUEL SCHULMAN

In reply to your letter of the 3d of October, asking me for my opinion on minimum wage legislation, I beg to say that I am of course, interested in increasing the wages of women and minors, which as you say, have been found by the investigators of the

Commission to be "insufficient to enable the workers to maintain themselves in health and decent comfort." I cannot send you a dogmatic opinion on the subject of minimum wage legislation, but I would suggest that this is a very many-sided question, and in my opinion, the Commission, before making any recommendations, might consider the following points:

First.— Whether wages considered as insufficient are in any way, to be discovered by the Commission, supplemented in the home from any source.

Second.— What are the present minimum and maximum wages for beginners and skilled labor.

Third.— What is the relation of profits in an industry to wages.

Fourth.— A comparative study of the conditions in other States, insofar as there are plants or industries in other States, competing with those in our State.

Fifth.— To what extent would such a law increasing wages of women and minors tend to replace their labor by that of male adults?

Sixth.— As this question bears on morals and much has been said of the actual supplement of wages by illicit gain, to what extent, if any, in this case? If this were unfortunately the case, then economically, though in a morally and socially disastrous way, income is now supplemented. If now, referring to No. 5, the law would tend to replace women by men, would it not stimulate the marrying of men and women and thus increase provision for women by men in legal marriage status, or by brothers or other kinsmen?

Seventh.— What is the relation of women to men workers in various industries where they either take the place of men or are indispensable on their own account, because of their natural aptitude or because the industrial work of the world must be carried on by both men and women?

Eighth.— What should be the relation of minimum to maximum wage in an industry with respect to the influence of such a relation upon the maintenance and growth of efficiency?

Ninth.— In what industries, if any, in our State, does a corporation control the output, so that there is practically no competition; and such industries would seem to be the most legitimate filed for the application of the experiment of minimum wage?

Tenth.— To what extent are minors full competitors with adults for jobs and to what extent would minimum wage lead to their elimination?

If it shall be found, after a thorough investigation, that a minimum wage law would not eventually hurt those whom it is intended to benefit, I am unreservedly in favor of such minimum law, on the principle that I believe it is the duty of the State to protect the weak against the exploitation by the strong. But not being an authority on economics, I cannot venture a dogmatic opinion on this question. I have answered your question in Yankee fashion, by suggesting a number of questions. This perhaps is not so unreasonable as coming from a Rabbi whose business it is, above all, to see that justice and humanity are both realized in our industrial life.

STATEMENT OF JOHN SPARGO

There can be very little doubt of the need of some method of fixing and maintaining a minimum wage not only for women but for all wage workers. There may be differences of opinion concerning the methods to be employed for this purpose, but no one whose opinion is worthy of a moment's consideration will dispute the need.

Long and bitter experience has convinced the workers in every industrial nation of the imperative necessity of establishing, by some means, not only minimum standards of wages, but also, and particularly, maximum hours of labor. The two go together. From the point of view of the wage-earner there is very little choice between underpayment and overwork.

From the point of view of society in general, as distinguished from that of the wage-earner, it is important that both the minimum wage and the maximum working day be established. Excessive hours of toil mean exhaustion and devitalisation of the workers, their early breakdown, both physically and morally, and, as an inevitable result, their dependence upon charity. Low wages is assuredly one of the most important causes of poverty. I refer now especially to low *rates* of wages, rather than to low *earnings*

as a result of sickness, irregularity of employment, and so on. Of course, low wages in this sense is a very material factor in the causation of poverty, but it is low *rates* of wages which is most important. I think that Rowntree, in his study of poverty in York, England, attributed 50 per cent. of the primary poverty to that cause. My experience in both countries leads me to believe that low rates of wages are quite as effective here.

I hold then, that society, for its own protection, to minimize the volume of poverty with its appalling consequences, should establish both minimum wage standards and maximum hours of employment.

The need for such legislation has been felt in every industrial nation, but nowhere is the need so great as here in the United States. I take it that no one who has given the subject consideration will for a moment dispute the proposition that our need of these safeguards is greater than that of any other nation. That is so on account of the tremendous stream of immigration which normally flows into this country. We receive a great many immigrants from countries in a backward state of development. What from an American standpoint would be a most dangerously low rate of wages, involving dire poverty, will often appear to the inexperienced immigrant from Europe to be a very high rate of wages indeed. Upon that rate of wages he will establish a standard of living which quite satisfies him, and appears even luxurious, but which is far inferior to the accepted American standard, and which, if long maintained, will seriously impair the welfare of the immigrant's children.

While I do not want to lay particular stress upon it, I feel that it is both pertinent and useful to direct attention to the bearing of this matter upon the remarkable decline in the birth-rate of our native American stock. Professor Walker, a good many years ago, and Mr. Hunter in more recent years, have argued that the competition of the immigrant with lower standards of living is primarily responsible for this. The argument is that the native American parents refuse to bring as many children into the world as they otherwise would.

Having said so much concerning the need of a minimum wage standard, I turn now to the question concerning which there has

been so much controversy, namely, What is the best method of establishing it? What I shall say under that head will apply equally to the establishment of maximum hours of employment.

I am aware that the proposal which we Socialists make, to establish these standards by legislation, is regarded unfavorably by many thoughtful persons, including, I am sorry to say, some of the prominent leaders of organized labor in this country. I am satisfied that in this they do not represent their constitutents; that I could get a verdict against them, in favor of legislation to establish minimum wage rates, from the rank and file of practically every union in this or any other great city. I speak from an intimate knowledge extending over twenty years. Where, as in Ohio, in 1912, the rank and file of organized labor have had a chance to vote on the subject they have supported the proposition.

Those who oppose the proposition to establish minimum wage laws, and laws limiting the hours of labor, object to the interference of the State in the relations of employers and their employees. They point to the fact that in England, centuries ago, wages were established by statute, or fixed by the magistrates, and that the workers were greatly oppressed in consequence. It is always dangerous, they say, to give into the hands of government agencies jurisdiction over wages and hours of labor.

I think that those who thus appeal to past history overlook the important fact that the workers now hold a very different relation to the State. At that time they were without the political franchise, they had no means of influencing either legislation or the administration of laws directly. That power they now have. The appeal should properly be made, it seems to me, to those countries in which minimum rates of wages and maximum hours of employment are now fixed by law. And that appeal, unquestionably, supports the demand for legislation.

It is argued that legislation is quite needless, that the results can be more readily and more efficiently obtained by economic action, by the unions themselves, without legislation. That, curiously, is the stand of Haywood and the I. W. W., generally, of the anarchists and of conservative union leaders like Mr. Gompers.

My reply to that contention is that *nowhere in the world at any time thus far have the labor unions established minimum rates of*

wages or maximum working hours for the laboring masses as a whole. What is more, there is nothing to indicate that they are likely to do so within any computable period of time. With all respect, and some regret, I say that we are no nearer to that goal to-day than when the American Federation of Labor was first organized, nearly thirty-five years ago.

It is quite true that for relatively small groups of workers, in the best organized trades, the unions have forced the employers to agree to minimum wage rates and maximum working days. But there is not a union which has organized all the workers in that trade so as to afford that protection to the entire body of workers in the trade. At best they have protected part of the workers in the industries which have been most easily organized. But when we come to the great army of unskilled labor we find that the measure of success in organizing them is pathetic in the extreme. For the overwhelming mass of unskilled workers, there is no such protection nor any effective union to secure and maintain it. And it is precisely to this class of labor, where the need is greatest, where the danger of low standards of living is most grave, that our immigrants come in such large bodies.

It is one of the scandals of our time that these unskilled workers have been so much neglected by the American Federation of Labor.

Very little more success has attended the efforts of the unions to protect the rates of wages and the hours of labor in those occupations in which it is difficult to organize the workers owing to fluctuations of employment, as in the seasonal trades, or to the well understood and inevitable difficulty of organizing female employees.

Until the unions have shown much greater efficiency in the matter of establishing minimum wages without legislation, simply by the exertion of their economic power, their claim can hardly be seriously considered. It does not belong to practical discussion.

As against the universal failure of the labor unions to accomplish the desired result — and the failure is universal, not at all limited to America — we have, fortunately, a very considerable body of experience to which we can appeal in support of the demand for legislative enactment.

In 1896 Victoria enacted a law providing that for certain trades joint boards of employers and employees be formed with power to fix minimum wage rates, maximum working hours, and other matters. The decisions of this joint body had the force of law. Now, that experiment worked so well that in 1900 the system was applied to the whole colony. In that same year it was adopted by South Australia, and New Zealand, New South Wales and West Australia followed suit.

What the workers in those countries think of it may be judged by the experience of Victoria. In 1902, by an oversight, parliament dissolving without passing a continuing act, the Victoria law was suspended. Immediately there was such an outcry that the new parliament made it the first order of business to re-enact the law.

The experience of these countries affords the best answers to the various objections which are offered against minimum wage laws.

The objection is often heard that if a minimum standard of wages is fixed that standard soon becomes also the maximum. In other words, that in actual practice a minimum wage becomes a uniform wage. There is, I believe, an element of truth in this, but it is not altogether true. Wages are, on the whole, thus made more uniform throughout the trade. There is a degree of "levelling", but it is levelling up, not down. The superior worker does not, in actual practice, get less, but the less efficient worker gets more.

Obviously, whatever truth there is in the objection applies equally to minimum wage rates fixed by the unions. It is not an argument against fixing minimum rates by law, but against fixing them by any method whatsoever. The unions cannot afford to resort to that argument, since it cuts the ground from under their feet.

So far as the experience of the Australasian colonies affords any guide, it appears that the minimum wage fixed by law no more becomes the maximum than the minimum wage generally recognized in any given locality does in this country. The *average* wage is invariably a good deal above the legal minimum.

The objection is made that the establishment of a minimum wage takes away the incentive of the worker to excel. This rests upon the conviction that the minimum wage really becomes the uniform wage, which experience disproves. The objection applies equally to minimum wages fixed by trade agreements. Every student of the labor movement knows that where there is no minimum wage, and no maximum limit to the working day, the employer often finds it to his interest to employ inferior workers, "boozers," for instance, because they can be had for low wages and can be induced to work long hours. On the other hand, where a minimum wage prevails, the superior worker has the great advantage of being more regularly employed.

To sum up: What we need is a minimum wage, established by legislation, sufficiently generous to provide, not a mere "living wage", but a healthy standard of living, which includes all the requirements for the efficient satisfaction of the physical, mental and moral needs of a family. The law should apply to all wage-earners and should be so devised that the minimum wage rates can be easily advanced to keep pace with the increased cost of living.

STATEMENT OF WALTER E. WEYL

I do not imagine that you will wish me to give anything more than my general opinion concerning the proposed Minimum Wage legislation, in view of the fact that your Commission will be in possession of a far wider and more accurate knowledge concerning the whole subject than I could possibly possess.

I do believe entirely in the principle of the Minimum Wage Law in so far as it affects parasitic trades, and especially in so far as it affects women and minors in such trades. I am not so confident of the advantage of passing minimum wage laws to apply to trades in which the union is well organized, since in the decades immediately before us I believe it would be far better to attain a high standard of wages in such trades by means of trade agreements between trade unions and employers or associations of employers. Your Commission, however, as a result of your searching investigations into various trades, is more cognizant

than are the rest of us of the crying need of some statutory regulation of wages in trades which are unprotected and in their nature parasitic. Publicity, the play of public opinion, and the growth of a moral sense on the part of employers and of the general community will not improbably have some effect in bettering these conditions, but in view of the highly competitive, in fact, pathologically competitive conditions in the trades which we term parasitic, it is often impossible for the well-intentioned employer to live up, in the matter of wages and conditions generally, to the ideals which he, individually, may have. I, therefore, believe strongly that the time has arrived for a definite statement on the part of a Commission like yours in favor of minimum wage laws affecting such parasitic trades, and especially the trades in which unorganized women and children constitute the majority of the working force.

I recognize that this statement of mine is necessarily vague and that there may be difficulties in translating such a general prescription into a clear and quite unambiguous proposal. I have felt, however, that what you desired was primarily my attitude toward the principles involved.

STATEMENT OF GAYLORD S. WHITE

As a result of my experience as a resident for many years in a tenement section of this city, I believe that the present conditions in industry demand further legislative regulation in the direction of establishing in certain industries, at least for women and minors, a minimum wage. If I am correct in my estimate of the situation a measure of this kind is needed both for the protection of the individual workers and also for the protection of society. It cannot be denied that wages insufficient for the maintenance of even an approximately satisfactory standard of living are received in the case of many thousands of workers. In certain industries, as for example, those which depend largely upon home work, women and children are receiving starvation wages. Any settlement worker of experience can number among his neighbors many persons who are forced to eke out an existence on insufficient earnings. It is the human aspect of the problem that is brought home most forcibly to us.

Where starvation wages are paid it is sometimes due to the exploitation of the worker; sometimes to the inability of the industry to survive if higher wages were paid. In the latter case the industry ought not to survive; in the former case, the question of wages should be regulated by law. For this purpose the creation of minimum wage boards seems to me the most effective method. I believe minimum wage legislation would have the following effect:

1. In those industries in which it was established it would insure a legal minimum which would bear an approximate relation to a living wage. It might not always be sufficient to maintain an adequate standard of living but would prevent the practically unlimited under-cutting of wages which competition makes possible.

2. It would discourage the giving out of work to be performed in the home. This is done, of course, because of the low labor cost. If these wages were set at a living level manufacturers would find it necessary to organize their work on different lines and to employ more efficient methods. It seems obvious that to a large degree the employment of women and children in the home, with all its attendant evils, would be very greatly reduced.

3. It is alleged by those who support the minimum wage that it tends to bring about a better understanding between employer and employee with the result of preventing labor disputes and consequent strikes. Where, under legislative compulsion, the manufacturer and the worker are brought together to discuss conditions in the industry, the consumer also being represented, and where effort is made to work out an equitable result in the matter of wages it seems not unreasonable to suppose that a better understanding should result and an opportunity of greater co-operation be developed.

4. I think further the effect of minimum wage boards would be to develop a more direct interest in the human aspect of the wage problem on the part of employers and, therefore, a greater sense of responsibility. The discussion of the interests of industries from the point of view of the consumer as well as of the employer and the worker would have a tendency to educate the public in industrial questions.

5. Education for efficiency ought to be stimulated by minimum wage legislation. Employers would naturally want the most effi-

cient workers if they were obliged to increase their labor charges and young people preparing for life would be impressed with the necessity of acquiring thorough training. The movement for industrial education should be promoted. It is objected that minimum wage laws will tend to level down to the minimum. Professor Seager can see "no a priori ground for such a view." He points out that unrestricted competition now operates to lower the wages of those of greater capacity and with a legally prescribed minimum it will be impossible to force wages down to a starvation level. He attaches more significance, however, to the experiences of those countries in which the minimum wage system has already been tried out and which goes to show that this alleged leveling down does not take place.

6. One of the most obvious objections to minimum wage legislation is the fact that it will throw out of employment large numbers of persons who are now in part self-supporting. This objection, however, may be regarded as an advantage. Has any industry a right to thrive at the expense of its workers? Will not society be obliged to face squarely the question of the wisdom of allowing an industry to flourish while it pays starvation wages, which fact, translated into human terms, means that men and women and children are underfed, insufficiently clothed, improperly housed, denied opportunities of spiritual development and destined to become dependent upon private or public charity, as they fill our hospitals and asylums? If minimum wage legislation forces us to look such facts as these fairly in the face and devise constructive measures of social insurance it will be well worth while. Such questions can no longer be ignored. They must be dealt with on broad and constructive lines.

With regard to the difficulties of the administration of minimum wage laws, I cannot speak with confidence but I have an abiding faith in the ability of human intelligence to work out methods for the accomplishment of any measures that are for the good of all people. The difficulties in places where minimum wage laws are in operation do not seem to have proved insurmountable. While minimum wage legislation appears to me to be obviously needed in the case of women and minors, it seems to me that theoretically the principle should be applied in any industry where wages constantly tend to fall below a living level.

III. LAWYERS

STATEMENT OF HENRY DE FOREST BALDWIN

I have your letter of the 2d inst., asking me for my views on the subject of minimum wage legislation. As I am ignorant of the literature on the subject, I cannot believe that my views will have any particular value. I am, however, very much interested in any proposition of that kind, and look forward to the Commission's report with much interest.

As I understand it, the trades union fixes now the minimum wage at which its own members are allowed to work. Undoubtedly, the trade union committee fixes the amount of the wage according to its judgment as to what it thinks its members can get, just as a man who has a commodity or a parcel of land to sell asks what he thinks he can get. This is enforced by the union, if necessary, by a strike. I take it that a strike ordinarily cannot be very successful, unless the strikers are more or less free to intimidate those who otherwise would undertake to accept the employment, on terms which are not satisfactory to the union. Thus, whenever a strike is declared, the public looks for violence and disorder. This is not a satisfactory way of settling important industrial disputes, and it can only be a question of time when the State, in one form or another, will undertake to preserve the peace by extending its authority to the questions which tend to create disorder. I suppose the principal question is the question of wages, which includes not only the amount of money paid the laborer, but the number of hours of his employment, and the conditions under which he is required to work, if he accepts the employment.

I suppose cutthroat competition can be as ruinous to wage earners as it is to railroads. And the competition of the incompetent, and of those who are partially supported through other sources than their labor, may bring down the prevailing rate of wages to a point where the really competent workman cannot earn a decent living, while if he were relieved from this unfair competition, the wages of the competent would be advanced and the increased wage fully earned.

The test of legislation of this character is whether it is so far in harmony with economic laws that it can be applied without injuring industry and driving it out of the State. We know that unwise management of trade unions has had the effect of driving industries to places outside their jurisdiction. It is unthinkable that the Legislature should attempt to fix minimum wages by statute. Any bad mistake in fixing the rate would tend to drive industry out of the State, as similar attempts by Congress to regulate shipping has legislated the American flag off the ocean. The delicate adjustments required would have to be made by commissions. The fundamental question, then, becomes: Are we honest enough to do this successfully by commissions? Our governors have not yet succeeded in filling the commissions already provided by law for regulating public service corporations with men who have the confidence of the community. A political commission would be practically without responsibility to anybody in particular. At present the committees of the trade unions are responsible to the people affected by their decisions, and it seems to me that their action can be much more flexible than the action of a political commission could possibly be.

It has occurred to me that it might be possible for the State to take over from the trade union the task of fixing wages, in co-operation with both the wage payers and the wage earners. We might have a kind of compulsory arbitration, not an arbitration which would require a particular workman to work whether he wanted to or not — that, of course, would be peonage — but an arbitration, between representatives of employers and employees, which would fix the rate of wages and the conditions of employment in a particular industry for a particular period. This might be of advantage to the employers as well as to the employees, as it ought to cut out the possibility of strikes during the period named by the commission. This would be analogous to the fixing of rates for the service of public service corporations.

If the State took over under its control the fixing of a minimum wage in any particular industry, I suppose it would amount to unionizing all labor in that industry. Its jurisdiction, however, could not go beyond the State lines, while, as I understand it, the present trade unions are not confined to State lines; hence, in

some industries their competitors in other States would have an advantage over them in case the regulation was detrimental to the employers.

With respect to the industries that do not meet competition from other States, it seems to me that regulations fixing minimum wages would be in favor of the large operators, and would tend to crush out small competitors. It may be that that would be a good thing. It may be the direction in which economic forces are working, and such legislation would merely help the process along more rapidly than it otherwise would move.

This would seem to be a good time to take up the consideration of a matter as important as this. We are less tied up now than ever before to our traditional doctrines with respect to personal liberty, State interference and liberty of contract. The idea that an employer can conduct his business entirely as he likes is no longer asserted. This is really a practical question. If our industrial organization in certain lines has developed far enough to be dealt with beneficially by legislation, we are not going to be deterred from attempting to deal with it by any theories of socialism or individualism. Still, we must always bear in mind that the larger interests of the wage-earning population must be to encourage, not to trammel, industry — must be to remove privileges from those who now have them, not to give new privileges to those who have not yet succeeded in getting them. It would be very unfortunate to have a minimum wage fixed so high that a man out of employment would have to pay a commission to somebody to get him a job. That has often been done in the case of public employment, where wages are fixed by law.

STATEMENT OF H. LA RUE BROWN

I have no doubt of the practicability and advisability of minimum wage legislation in some form. I am not sure that our form (in Massachusetts) is the most desirable. I believe however that there is offered here an intelligent and conservative manner of approaching a serious situation which has not yielded to other modes of attack. We travelled slowly and cautiously in Massa-

chusetts but seemed to be getting definite results of which the most interesting was the fact that actual experience with the wage board system seemed to make converts of many who at the outset could see no good in it. Certainly such legislation is not a panacea. On the other hand it destroys no "palladia of our liberties." Whatever else may result, the bringing together of employers and work people to discuss their common problem with the attendant gains in mutual understanding and appreciation is a consequence of significance and importance.

I feel some hesitancy in dealing with the matter further than to express some general and individual opinions. As to them I have no doubt. I believe thoroughly in the movement for such legislation and I am inclined to think that, conceding certain difficulties of detail, full acquaintance with it almost always robs it of the terrors with which some vague association with "socialism" and other bugaboos of the conservative cause it to be attended in the minds of many.

STATEMENT OF W. BOURKE COCKRAN

Pursuant to the request conveyed in your letter of December 1st, and in fulfillment of the promise embodied in mine dated December 3d, I have the honor herewith to submit for consideration by the New York State Factory Investigating Commission some views "*on the advisability of enacting minimum wage legislation,*" and a few "*suggestions with reference to the wage problem particularly as it affects women and minors.*"

The serious character of this wage problem your letter makes very clear in these terms:

> "Our investigations have shown that in many cases, wages, particularly those paid to women and minors, are very low and insufficient to enable the workers to maintain themselves in health and decent comfort. The Commission is now considering the remedies that should be adopted to meet this condition."

That in a city claiming primacy among civilized communities there can be found many persons neither vicious nor idle, but

among the most laborious of the population, who are unable even by long hours of toil "to maintain themselves in health and decent comfort", amounts to a grave impeachment of the whole industrial system under which such a condition has proved to be not merely possible but actual. Unless, therefore, the Commission succeed in finding the remedies it is seeking, this civilization built on free labor must stand discredited; and all history shows that a civilization which is discredited is in danger of dissolution.

It goes without saying that every one would like to see the wages of these workers increased. The difficulty is to ascertain how this can be done. Obviously, before the wages of any worker can be increased, means to pay the increase must first be found.

Experience shows only too plainly that attempts to remedy by legislation distressful conditions, not directly caused by government, very often result in deepening the miseries these ill considered measures are intended to relieve.

A law fixing a minimum rate of wages, for instance, could easily be placed on the statute book. But it by no means follows that after its enactment every worker now grievously underpaid would be found actually receiving a wage sufficient to support him in "health and decent comfort."

The state might, indeed, prohibit by law employment of any one within its jurisdiction at a rate of wages less than, say two dollars a day. But if it should result that a laborer who now earns one dollar every day could find employment only two days a week; or that the industry from which he draws his present scanty wages would be destroyed (when he must find himself deprived of all wages) his condition far from being improved would be rendered still more wretched.

The first question to be considered then is whether the state has power to increase wages by any exercise of its own functions; or through any act, performance of which it can enjoin upon persons subject to its authority.

If such power exist, every one would welcome prompt and full exercise of it. If it does not exist, attempts to assume it can only result in aggravating conditions already deplorable.

In speaking of what the State can do and what lies beyond its power to do, no reference is intended here to those constitutional

limitations peculiar to our own system of government. The power we are now discussing is the utmost power that can be exercised by organized society under any form of government, even the most absolute.

In considering the extent to which the state can control or determine the rate of wages, it is absolutely necessary to begin by determining just what we mean by wages. No subject is wrapped in denser obscurity. The various definitions to be found in works on political economy have apparently served but to increase the confusion of thought they were formulated to dispel.

Without undertaking to reproduce or attempting to reconcile these definitions — above all, without venturing to increase the number of them — the nature of wages can be made perfectly clear by the simple process of examining in detail the actual operations of industry familiar to every one in the production of some one commodity; the chair, for example, on which the writer is now sitting.

If a laborer engaged in making chairs produce ten chairs worth fifty dollars every day, and his wages be five dollars a day, his rate of compensation clearly is one-tenth of his own product — one chair of every ten that he produces. He does not, of course, take a chair away with him every evening, and undertake to divide it among the butcher and baker and grocer and landlord. To do that would be to destroy the value his labor had created in putting together its component parts and combining them into a chair. Instead, therefore, of taking for his wages a chair which cannot be divided without destroying its value, he takes its equivalent in money, that is to say, he takes five dollars which can be divided among all the different persons to whom he is beholden for the necessaries of life.

It would be grave error, however, to assume (as superficial observers often do) that these nine chairs or forty-five dollars, constituting the difference between the total product of this laborer and the portion of it which he receives in compensation for his toil, all go to the employer for his own profit. That difference is a fund from which must be repaid every person who contributed in any degree to production of these chairs. The woodman who cut down the trees and fashioned them into logs; the carrier who

transported these logs to the saw-mill; the sawyer who converted them into lumber; all the different workers by whose labor the various elements constituting the chairs were produced; the manufacturer who assembled these materials in the factory; the mechanic who put them together; the dealer in whose establishment the finished articles were offered to the public; the salesman who sold them; the truck driver who delivered them to the ultimate purchasers; all these must be paid from some source or other. There is no source from which they can be paid except the proceeds realized by sale of the chairs.

It is true that each of these contributors was paid for his contribution at the time when it was made, and this, in each instance, was before the chairs were sold.

This feature of production has proved the chief source of those varied misapprehensions which becloud almost hopelessly the whole problem of wages.

Because a laborer is usually paid in money before the commodity produced by his labor has been sold and thus converted into money, economists have jumped to the conclusion that he could not have been paid directly from his own product. They have accordingly assumed existence of a fund separate and apart from any created by the laborer, usually called a " wage fund ", and from this they picture the employer drawing money which he bestows or " advances " as wages. From this it follows naturally that the rate of wages is held to depend upon the disposition of the employer. A generous employer will draw freely from his " wage fund ",— that is to say, he will pay high wages; while a bad employer will draw sparingly from it — that is to say, he will pay low wages.

Under the influence of this idea the whole problem of increasing wages is considered to turn on how far the generosity of an employer can be moved by appeals to his benevolence, or how much can be extorted from him by threats addressed to his fears.

This whole conception might be dismissed as fantastic, were it not that it has given rise to a multitude of extravagant proposals, none of which could be adopted without prostrating all industry and thus drying up the fountain of all wages. This mistaken notion of wages will be dispelled and the sinister superstructure of

misconception resting on it overthrown, if we follow a little further the manifest operations of industry.

While it is true that payment of a laborer's wages in money precedes sale of his product, it is equally true that no laborer has ever been paid anything until his labor had been actually performed. In the whole range of industry no laborer has ever been paid wages in advance on his mere promise or agreement to perform labor. Actual performance of labor is the inexorable condition precedent of all wages.

The laborer whose operations we have been considering was not paid one penny in wages until by his labor in completing ten chairs he had become entitled to one of them. Had he been paid no wages in money at the end of the day he would have remained the owner of one chair worth five dollars, while the employer would have been the owner of nine chairs and of five dollars in money. After payment of the laborer's wages the employer owned ten chairs, and the laborer five dollars in money. Here the employer made no "advance" of capital from a "wage fund", or from any other fund except the fund that had been created by the laborer himself. A change had simply been effected in the form of some capital. Capital to the extent of five dollars in money was exchanged by the employer for capital in the form of a chair worth five dollars belonging to the laborer. Before the laborer received any wages he had first produced the whole of his wages, that is to say, he had produced the chair, the equivalent in property of the money paid him in wages.

What is true of the laborer who fashioned the chairs is true of all other laborers through whose co-operation he was able to produce them. The logs which formed their basic material were of greater value than the trees from which the woodman had fashioned them by his labor. That added value was property created by him. To part of this property he became entitled in compensation for his toil in producing the whole. And it was this property already produced by himself which the woodman transferred to the employer in exchange for the money constituting his wages.

This process was repeated at each stage of production. At its final stage, the price paid by the manufacturer for the various materials of his chairs included every dollar paid to all the workers

by whom they were produced, and this expenditure on his part is repaid, when the chairs are finally sold. After deducting the amount paid for materials from the proceeds of the chairs, the remainder constitutes profit, and this will not average over ten per cent. on the capital employed in producing them.

The conditions under which chairs are produced govern the production of all other commodities. The wages of an agricultural laborer must be drawn ultimately from the crop which he has aided in planting, in reaping or in harvesting. Before the miller can begin the manufacture of flour, he must first obtain the raw material of his product, the cost of which includes every penny that has been spent in sowing wheat, reaping it, harvesting it, and bringing it to the market. And so the wages of a laborer engaged in building a road must be drawn from the profits of the increased trade which its construction has stimulated; the wages of a laborer employed on a railway must be drawn from the revenues earned by the service of which he is a part.

All industry is in fact one vast scheme of industrial co-operation in which many men, strangers to each other, are found contributing to the production of some commodity, or the prosecution of some enterprise, though frequently unaware of their common object — usually ignorant even of each other's existence; and all the fruits of this co-operation (aside from the portion of it assigned to capital for profit) are distributed among the laborers who have contributed to produce them.

It must at the same time be borne in mind that there is nothing to distribute among laborers except the product to which they have all contributed.

In the light of this inescapable fact, the difficulty of fixing a minimum wage, or any other wage, becomes at once apparent.

If the State, believing one laborer to be inadequately paid, should direct that his wages be increased, it would in effect be assigning him a larger proportion than he now receives of a product to which many other laborers must have contributed. But in that event, these other laborers must be paid less than the proportion they now receive.

If the laborer who finished the chairs be given more than one-fifth of the product, the woodman who cut down the trees, or the

sawyer who converted the logs into lumber, or some other laborer who contributed to its materials, must necessarily receive less, for there is nothing but the proceeds of the chair to be distributed amongst them.

Nobody, it can be assumed, would favor raising the wages of any laborer, however poorly paid, by cutting down the wages of another even though he be highly paid.

But it is insisted that wages should be increased by distributing among laborers that proportion of the industrial product now allotted to capital for profit.

The ethical merit of this proposal it is unnecessary to consider. It will be sufficient to show that its adoption would cause not an increase but a reduction in the rate of wages.

To deprive capital of profit, would, of course, end private ownership of it. No one would assume the burden of caring for capital except for the interest or profit to be derived from employment of it. If private ownership of capital were abolished, the State itself must assume the task now performed by owners of capital. But with the State in control of all industry, the essential conditions of production would remain exactly what they are now.

A chair, for instance, could not be produced under any system of industry until necessary materials were first secured. Trees must still be cut down in the forest exactly as at present; logs must be sawn into lumber; all the component parts must be assembled in one place, before they can be combined into a chair available for use. And the cost of all these must still be drawn from the proceeds of the chair itself. There is no other source from which it could be drawn.

The only difference between the new system and the one it has displaced is that government employes would be found performing for salaries exactly the same task that individual owners of capital are now performing for profit. But in the very nature of things office holders drawn from all elements of the population could not perform this service so efficiently as men specially trained to it, who have spent their lives in performing it. That is to say, the same services rendered by office holders would cost more, and therefore, from the proceeds of a chair manufactured

under these new conditions a larger proportion must be deducted to cover the cost of directing the various stages of its production than is deducted now for the profits of capital. Less, therefore, of the proceeds would remain for distribution in wages among the different laborers who had contributed to produce it.

And so with a great railway service. An attempt to distribute all its earnings among the laborers by whom it is operated without any deduction for interest on bonds or dividends on stock would result not in raising wages, as a great many persons believe, but in decreasing wages.

This also will be made clear by examination of the essential conditions governing operation of a railway.

Whether a railway be operated by owners of private capital or government employees, there is no source from which the cost of its operation can be paid except its own earnings. Obviously, the road must continue to earn revenues if it is to pay any wages at all. To maintain it in operation worn out rails must be renewed, rolling stock must be acquired, new bridges must be constructed, old ones repaired, to say nothing of extensions or new constructions. Under the existing system these requirements are met by issues of stock or bonds, that is to say, the cost of them is distributed over many years, usually over several generations. But under a system which permitted no dividends to be paid on stock or interest on bonds, the road could not obtain funds for any purpose by pledging its credit. It would have no credit to pledge. The whole cost of maintenance and construction must therefore be defrayed from current revenues, and the amount which must be deducted under these conditions from the earnings of each day would vastly exceed the amount now deducted for interest on bonds or dividends on capital. Much less of the earnings, therefore, would be left for distribution in wages.

From all of which it is clear that the state is powerless to increase wages. The laborer must produce his own wages, and all of his wages. His wages being part of his own product, the rate of his wages must necessarily be determined by the value of his product. In the very nature of things it can be determined by nothing else. For if he be paid more than the value of his product he is employed at a loss and an employer could not continue to

employ laborers at a loss without first impairing his capital and ultimately destroying it, when being bankrupt he could pay no wages at all.

Nor can a laborer be paid less than the value of his product — at least for any considerable period of time.

The only object which could govern an employer in paying a laborer less than the value of his product would be to secure larger profits on his own capital. But if by persuading or forcing his laborers to accept disproportionate wages he succeeded in gaining unusual profits, the moment this became apparent other capital would enter that field of production to compete for a share of these unusual profits. Capital competes against capital for profit even more keenly than laborers compete against each other for employment. Competition of capital against capital in any field of industry must take the form of competing for the best labor, and this would inevitably force the rate of wages upward until such a proportion of the product went to the laborers that the profits of capital would be reduced if not extinguished. It would then be driven to seek more satisfactory profits in some other field of production.

There is but one way by which the wages of labor can be increased, and that is by increasing the volume of production.

If the laborer whose operations we have been considering could double the output of chairs, his wages might be doubled without changing in the slightest degree his own proportion of the product. That proportion remaining one-tenth, his wages would be two chairs instead of one, ten dollars instead of five each day. But the employer could much better afford to pay ten dollars for a product of twenty chairs, than five dollars for a product of ten chairs. In the one case the surplus over and above the laborer's share would be eighteen chairs and in the other nine. Neither the laborer nor the employer would here be taking anything from the other. They would be dividing an increase of production, accomplished through the joint efforts of both. And they would not be the only beneficiaries of this increased production. The whole community would be blessed by it.

Production of chairs cannot be increased without increasing the materials of which they are composed, and these cannot be

increased without additional employment of labor. Increased demand for labor anywhere operates to increase the rate of wages everywhere, while at the same time a larger production of chairs by increasing the supply necessarily operates to diminish the cost of them to purchasers.

And so with all other commodities. Every increase in production must be accomplished through increased employment of labor. And this must involve not merely an increase in wages of the laborer, but an increase in the purchasing power of the money in which he is paid, through a general fall in the price of commodities.

Rising wages is in fact the essential condition of growing abundance, that is to say of expanding prosperity. This being so, wages cannot be too high. If the wages not merely of these workers who are now grievously underpaid, but of all workers could be doubled or quadrupled or multiplied fifty fold, it would not be a source of injury to anyone, but of measureless benefit to everyone, not merely in this country but throughout the whole world.

This explains (what is often considered a paradox of political economy) why labor which is paid the highest wages is in fact the cheapest, that is to say the most profitable to employ. Slave labor which pays no wages whatever is now conceded to be the least profitable of all.

The correctness of the position here assumed is confirmed by the very exhaustive inquiry which followed the great railway strike in England some three years ago. There it was found that the wages paid by some roads were scandalously inadequate to support life in comfort or even in decency. But these were roads that paid either very small dividends or no dividends at all. On the other hand, some roads were found to be paying fair wages. Without exception they were roads which yielded substantial dividends to stockholders.

Doubtless this Commission has found identical conditions here. If, however, this aspect of the wage question has not been fully examined, further inquiry, it is confidently believed, will show that the industries which pay woefully inadequate wages are those where profits are narrowest and most precarious, while industries which afford decent wages are those where profits are substantial and permanent.

That wages can be increased only through increasing the volume of production is the cornerstone of an industrial system built on free labor. That system is far from perfect. Competition of laborers for employment has often produced conditions worse almost than those of servitude. Yet on the whole it is the best that has ever been established by civilized men. Under it progress, though slow, has none the less been continuous. Its best feature is that while it has not increased splendor or magnificance among rulers at the top, it has widely extended comfort and prosperity among producers at the base of the social structure. A king or a noble is a much less imposing personage today than at the beginning of the seventeenth century. But the condition of a working man has improved so decisively that when we contrast the daily life of a laborer today with that of a worker even a hundred years ago it is difficult to believe we are contemplating the same order of created beings.

But notwithstanding the vast improvement of conditions among workers during the last century, and even during the last generation, the fact remains that this Commission has found many persons, law-abiding and laborious, unable by their utmost efforts "to maintain themselves in decent comfort."

These conditions are ulcers on the body politic which not merely impeach its soundness but threaten its existence. To remedy them — and at once — is the pressing duty of humanity, and the imperative task of patriotism.

Fortunately a remedy complete and effective is feasible. And it is not far to seek.

The feature of social progress which in the last decade has been at once the most conspicuous and the most auspicious is the steadily growing disposition to place men who serve all their fellows by laborious effort in the field of industry on the same level as men who fight strenuously to injure some of their fellows on the field of battle. The fighting man in all ages and all countries has been the object of peculiar solicitude. When his capacity to bear arms is ended through injuries received in service or advance of years, he is pensioned from the public treasury.

The working man rendered unable by age or accident to provide for himself was left until quite recently to starve or seek

the shelter of some public asylum. A peculiarly barbarous system of law left him without any right to compensation for injuries sustained in the course of his employment, if they were caused by the negligence of a fellow employee, which under modern industrial conditions included practically all injuries to which his calling exposed him.

If a building were injured by lightning or riot, if a piece of machinery became outworn or damaged, if a dumb brute went lame or died, the employer was compelled to repair these losses from his capital. By adding the cost of them to the price of his commodity he reimbursed himself at the expense of the consumer. But injuries sustained by a man, woman or child, laboring to enrich him, the employer could disregard absolutely. All this has been changed. The barbarous rule of law which made a man, woman or child, the only element contributing to production that could be maimed or injured, or destroyed with impunity, has been abolished. When it was solemnly adjudged a part of our organic law by the highest force of the State, the Constitution itself was amended in obedience to an imperious public opinion, and almost by a unanimous vote.

In some countries of Europe (and they the most important industrially), the worker is now pensioned in his old age. And this system of old age pensions will soon become a feature of the industrial system in every country.

It is along this direction that the Commission will find the remedy it is seeking.

While the State cannot fix a wage — minimum, maximum, or intermediate — that is to say, it cannot interfere with the distribution of an industrial product for the purpose of assigning to any one worker either more or less than the value of his contribution to it — it can impose on the community — that is to say, on the whole body of industry — the burden of removing conditions which discredit and endanger it.

This would not involve any very wide departure from existing conditions and customs.

It has long been an accepted duty of the State to provide food, shelter, and clothing for such of its population as are incapable of providing these necessaries for themselves. There is no reason

why it should not extend this benevolence to those who by strenuous labor succeed in providing support for themselves, to some extent, but are yet unable "to maintain themselves in decent comfort."

Whether such an extension of its benevolence by the State is practicable depends of course upon the extent of the drain it would impose upon the treasury.

It must never be forgotten that no funds can be paid out of the treasury in benevolence until after they have been first put into the treasury by taxation.

There is, however, no reason for apprehending that such a system of relief would overburden the treasury. Nor judging by all experience, would it result in encouraging idleness and discouraging thrift. History does not record a single instance where extension of benevolence by the State towards the helpless of its population has resulted otherwise than in benefit to the entire community. Persons who fail to support themselves through idleness, vice, or depravity have long been supported at the public expense, yet the indigent who live upon public alms have not been increasing but steadily decreasing in number. Few will stoop to eat the bread of charity who can gain by any exertion the bread of independence, however coarse and scanty that bread may be.

The difficulty most likely to be experienced in making such a system effective would not spring from attempts of great numbers to abuse it, but from reluctance of many for whose benefit it would have been established to make public their necessities. Pride has been known to withstand even the pangs of hunger; and that, too, during the very trying winter through which we are actually passing.

To establish such a system the State must begin by fixing a standard of living and declaring it the lowest that will be permitted within its borders.

To enforce this standard inspection by the State of all industry would be essential. This, however, would not involve anything new in the theory or practice of government.

Factories and other industrial establishments where many persons labor are now inspected for many purposes.

There is no good reason why this system of inspection should not be made general. Wherever any person is employed for wages the State should charge itself with the duty of inspecting the conditions of employment — not merely the sanitary conditions under which the laborer works but all the conditions under which he lives — and these conditions are necessarily determined by the wages that he receives.

Should an industrial enterprise be found earning substantial profits on capital while its laborers are paid wages insufficient to support them in decency and reasonable comfort, mere publication of that abuse would almost inevitably end it. In the first place by making public the large profits earned through such methods, competition of other capital for a share of these profits would be almost certainly attracted, and this of itself would operate to raise the rate of wages. In the second place no one, whether managing his own affairs or those of a corporation, could continue to exploit laborers in the light of full publicity.

Where, however, persons were found earning inadequate wages because the industries in which they found employment could not afford to pay living wages, they should not be prevented from continuing to earn what they could, but these scanty earnings should be supplemented by contributions from the public treasury sufficient to meet the requirements of living, according to the standard fixed by the State.

As on the battlefield when the tide runs adversely in one place, assistance is summoned from other quarters where the tide is running favorably, so on the field of industry when some workers who though they labor valiantly are beset by disasters that threaten to overpower them, assistance should be afforded by those for whom the tide of fortune has been favorable and whose conditions have become prosperous. And as on the battlefield, warriors driven back by overwhelming odds after struggling loyally to keep their places on the line, are never regarded in the same light as deserters who shirk altogether the burden and heat of the fray, so workers who after loyal labor fail to win decent support for themselves and their dependents, should not be treated like the idle and the vicious who wantonly refuse to bear any part in the great industrial cooperation which we call civilization.

Workers whose toil is unfortunate should never be confounded with shirkers whose idleness is deliberate.

Such a system as is here suggested could become effective only if its administration were placed in hands thoroughly sympathetic. Workers who are victims of distressing circumstances, but who prefer to conceal their distress and endure it rather than obtain relief by acknowledging it, should be diligently sought out and persuaded to accept assistance, because it is the interest of the State that they live according to a standard which, without that assistance, they cannot attain. This can be effected only by making them feel that they are not regarded as mendicants whose support is furnished by the community, because a civilization calling itself Christian cannot afford to let them starve, but as meritorious persons who have fallen temporarily out of the industrial procession through no fault of their own, and whose constant efforts to rejoin it the State is anxious to aid not solely through sympathy for them, but in greater measure through regard for its own welfare and safety.

Ample returns for every dollar of public treasure expended in this direction will be found in improved conditions, moral and material, which must sensibly lessen the total cost of government; in prompter obedience to law yielded by more contented workers, which must facilitate enormously the maintenance of order; in a higher average of health, which must insure the State more vigorous women to bear the children who will be its citizens — stronger men to cultivate its fields fruitfully in times of peace, and guard them inviolate in times of war.

These conclusions may be summarized under three heads:

First. The State is powerless to fix a rate of wages, that is to say, it cannot compel payment of wages to any worker at a rate fixed arbitrarily by itself through its officers or departments; and this not by reason of constitutional limitations which might be removed or modified, but of inherent limitations which are immovable and inescapable.

Second. The deplorable conditions found by the Commission among certain workers cannot be permitted to continue without seriously injuring the prosperity of the community and gravely imperiling the security of the whole body politic.

Third. These evils must be remedied not by attempts of the State to interfere with industry, which can result only in confusion and disaster, but by exercise of its eleemosynary powers which can be invoked effectively to relieve the distressful consequences of inadequate wages.

STATEMENT OF JULIUS HENRY COHEN

The Commission will do well to study the report of the Wage Scale Board in the Dress and Waist Industry, prepared by Mr. N. I. Stone and about to be issued by the U. S. Department of Labor (Bulletin No. 146). For more than a year, at the joint expense of the International Ladies' Garment Workers' Union and the Dress and Waist Manufactures' Association, Mr. Stone made a scientific study of the industry. The agreement between the Association and the Union provided:

"The parties hereby establish a Wage Scale Board to consist of eight members — four to be nominated by the Manufacturers and four by the Union. Such Board shall standardize the prices to be paid for piece and week work throughout the industry; it shall preserve data and statistics with a view to establishing as nearly practicably as possible, a scientific basis for the fixing of piece and week work prices throughout the industry that will insure a minimum wage, and at the same time permit reward for increased efficiency. It shall have full power and authority to appoint clerks or representatives, expert in the art of fixing prices, and its procedure so far as practicable, shall be the same as now followed by the Board of Grievances in the Cloak Industry. It shall have full power and authority to settle all disputes over prices, make special exemptions for week work where special exigencies arise, or a special scale is required."

Mr. Stone demonstrates in his report that a "minimum wage" that does not take care of the "learner" or "apprentice" is utterly impracticable and cannot operate without injury to the workers and employers alike. Immediately after the Protocol of Peace was signed in January, 1913, hundreds of girls were discharged, because they were not competent to earn the "minimum

wage" agreed upon. An immediate agreement was required to provide for compensation *less* than the minimum to such learners and apprentices. Even now, the system is only empirical and must be worked out in great detail, with due consideration for all, and with a view to safeguarding it from abuse.

Mr. Stone recommends as the solution two things, a *thorough-going system of Industrial Education,* and a *thorough-going system of Apprenticeship, including registration and joint control.*

Obviously, if this be the result when workers and employers are jointly co-operating to raise standards, how much more difficult will it be for the State to carry on such a work?

I am of opinion that until we are better informed, and have a system of industrial education equipping learners and helpers, at the same time protecting them, a legislative program for standard minimum wages would be a mistake. The law could not be enforced practically. Both the workers and employers would rebel against it. I am a firm believer in minimum wage regulation (primarily by the industry itself, through joint boards), but I believe the first step is to gather sufficient data to work out a sane system of apprenticeship and education in industry for girls and women — safeguarding both workers and employers from abuse of the system, and making the basis for an ultimate standardization of employment which will safely support a minimum wage.

My experience convinces me that to legislate without recognition of all the human factors involved in this problem is dangerous. Our hearts are naturally moved by sympathy and a sense of fair play for the women and children workers; but if we are to be the physicians of the situation, we must prescribe a remedy whose after-effects will not bring on a worse ailment.

STATEMENT OF MANFRED W. EHRICH

My reason for favoring such legislation is that I believe that the labor of a normal adult woman must have a value to the community at least equal to the cost of properly supporting such woman. It is not possible to determine the actual productive value

of the labor involved in any one of the very specialized operations into which modern industry is divided, but the labor of an adult worker, engaged in the performance of any of these operations ought to be worth at least the support of the operator. My basis for this assertion is that the cost to the community of any labor demanding the full day's work of a normal adult is at least the cost of supporting the worker. Unless there is waste, by reason of misdirected energy, over-production, or ineffecient management, the value of the labor should be at least equal to such cost.

It may be argued that the value of labor is determined by the selling price of the finished article. This cannot be so, for the selling price of the finished article is itself largely determined by the labor cost. It may be argued that the value of labor is determined by the law of supply and demand. The law of supply and demand fixes the price of labor, not its value, and it fixes this price at the wage at which a substitute may be hired. The ever present unemployed tend to keep the wage of the unskilled laborer close to the starvation point, and the competition of women, not wholly dependent upon their earnings, frequently drives women's wages below the cost of even a bare existence. The injury resulting, not only to the individual, but to the community, is apparent. As an honest day's work of a normal woman is presumably worth a living wage — that is a wage sufficient to sustain the worker and fairly keep her in health — and as the present system tends to drive wages down to, and even below, the starvation point, some artificial method of keeping wages at least at the living point, must be sought. There is nothing revolutionary about the arbitrary enforcement of a minimum wage, for the State, by enforcing the payment of a minimum wage, merely does for unorganized unskilled labor, what organized labor has done, and what unorganized unskilled labor cannot do for itself.

A minimum wage statute should, I think, provide for the determination of the minimum wage, by a commission, and the statutes of Oregon, Washington, California and Minnesota form admirable guides for New York to follow.

The question of extending minimum wage legislation to men is one of much difficulty. Men in the unskilled trades are no doubt often underpaid, but the difficulty is not so much that they are

unable to obtain an individual living wage, as that their failure to obtain a family living wage, forces their wives and young children into the stores and workshops. The enforcement of a family living wage raises difficulties not involved in the enforcement of an individual living wage, and the extension of minimum wage legislation to male employees raises a constitutional question quite different from that involved in the decision of the Supreme Court of Oregon in Stettler v. O'Hara.

I think that minimum wage legislation should, for the present, be confined to the enforcement of a living wage for women and a suitable wage for minors.

STATEMENT OF RAYMOND B. FOSDICK

Theoretically, I believe in minimum wage legislation, or, rather, I believe in the necessity for such legislation. I do not see how we can arrive at a satisfactory situation in this respect except by legislation. The argument that such matters concern private enterprise and, therefore, should be left to private conscience I have no sympathy with. The time is past when we can afford to take any such position. The question of wages has become a matter of public conscience, to be determined, at least as far as its minimums are concerned, by the public will.

STATEMENT OF JOHN D. KERNAN

Everyone sympathizes with a worker's desire and abstract right to have a living wage, and I understand that your Commission is seeking to accomplish this, so far as possible, by legislation. One of the difficulties with such legislation is that if it disturbs economic laws, such as supply and demand, competition, etc., it is apt to kill the goose that lays the golden egg, or, to exclude capital from activity and, perhaps, drive it elsewhere out of the State. I know of several idle plants employing many men, where suspension of operation was principally caused by the union attitude of labor, not only as to wages, but as to the rules making for

efficiency. This illustrates what unwise legislation as to minimum wages might do. It might also tend to increase the tendency towards spasmodic work, at high rates, rather than steady work at a moderate wage, which would seem to be better for labor. There is too much of this evil already. Wages of masons and carpenters, for instance, have been pushed up hereabouts until it looks as though the large majority of them are idle much of the time. Their appearance indicates a want of the prosperity that used to prevail among that class with more steady work at much lower wages, or than can be found in the country to-day, among masons and carpenters who work for from $2.25 to $3.50 for ten hours, and who supplement their earnings with their own eggs, milk, butter, vegetables and pork. As a rule, they own comfortable homes with some land about, upon which lack of building employment enables them to live comfortably on the products of the land. It seems strange that no labor union has taken hold of this idea, but has simply sought to benefit its members by urging higher wages and shorter hours. Practical economic use of the time saved by shorter hours upon a bit of land, does not seem to suggest to labor unions any side line of benefit whatever to their members. Living in small flats in crowded sections cuts labor off entirely from any opportunity to use any of the time outside of working hours, profitably.

A man who has worked for me for many years, by spending an hour after supper on his garden patch about 100 feet square, raises every vegetable in plenty for his family's summer and winter use, and also from that source, and from garbage waste, practically, can raise a couple of pigs. Now, instead of constantly seeking the doubtful aid of more legislation, cannot labor benefit itself more effectually through land or leasing ownership and cultivation? At least, is not the the idea suggested worthy of earnest consideration and discussion on the part of labor unions?

The Italians, and other foreigners in and about Utica, are about the only people that raise their own vegetables, and many of them can be found with large families, working at the lowest wages, who are prosperous and comfortable. For years they have been the principal buyers of vacant suburban lots, and in slack times their little gardens carry them through.

Another difficulty to be remembered in considering the question of legislation, is in drawing the line fairly between necessaries and luxuries. Is not the definition being constantly dangerously extended so as to include more and more of luxuries? Such, for instance, as car-fares for moderate distances, money for amusements, buying everything for personal and home use, etc. Do we not, all of us, buy bread, nowadays, instead of making it, wholly regardless of the economic factor involved?

Again, will not minimum wage legislation drive out of employment a large class of those incapacitated in one way or another from doing a full day's work? They tell me there are many such employed at much less than going wages, largely as a matter of consideration for past service, or for other personal reasons. Would it not be a great pity to prevent such employment by any such proposed legislation?

While I have always doubted, for economic reasons, whether very much can be accomplished by legislation, toward securing for workers a so-called living wage, I am earnestly in favor of doing everything possible to bring about that result in every practical way.

STATEMENT OF JARVIS W. MASON

As my experience has been that of a professional man rather than that of an employer of labor, I doubt very much whether my opinion would be of any value, and I certainly could not, from my experience, categorically answer the questions enumerated. Speaking generally, however, on the subject of wages and especially minimum wages, I am of the opinion that there should be a minimum wage, provided some method can be formulated for ascertaining the cost of living, and that that minimum wage should be automatically fixed and should rise and fall with the average cost of living. That for a man, and I may say for a woman, over twenty-five, it should be sufficiently high to enable him to live thereon personally and to support a family and furnish them with the necessities of life and something more. For boys under twenty and for women under twenty-five, perhaps such minimum wage should be fixed at a sum necessary to provide the workman

individually with the necessities of life and something more. I fear this would result in throwing the sub-normal out of employment; but one reason why the normal wage is low is that the sub-normal competes unfairly, and this is an economic condition which cannot be avoided, if there is no restriction on the contract of employment. Under such circumstances I believe it would be necessary to take care of the sub-normal institutionally under conditions where what ability each one has can be made effective, to the end that the support of the sub-normal need not be a burden on the normal.

There is another question entering into the minimum wage subject, and that is how far the enforcement of the minimum wage law would prevent New York manufacturers and business men from competing with those in other states and foreign countries. My experience has not fitted me to answer this question satisfactorily, but I am of the opinion that the exclusion of the sub-normal from ordinary employment would so far increase the product that the expense to the manufacturers and business men would not be increased.

STATEMENT OF CHARLES F. MATHEWSON

Not being an employer of labor or engaged in business requiring operatives, I am not sure that my views are of value. Indeed, I confess that in some lines they are hardly crystallized and that on many phases I never had occasion to give the subject deep thought.

I think a minimum wage will tend also to become a maximum wage. It will affect adversely the more competent workers. It will also cut off from employment those who are not capable of fairly earning the minimum wage, thus tending to decrease the number of employees and leave idle the less competent. I am not sure that this will be a good thing; I am inclined to think rather that it is a good thing to allow a person of small capacity to earn what he can without forbidding him employment by establishing a minimum wage which he cannot earn.

Moreover, especially in men's employments, organization of workers is accomplishing everything that is desired in the ad-

vancement of wages. Indeed, they have succeeded in so advancing wages that in many industries a man can make very much more than the average clergyman or educated school teacher can make, after his years of preparation.

The only possible argument that I can see for a minimum wage is in the case of women and minors, particularly minors; and I am inclined to think that the education and power of public sentiment will do more in this direction than any other force. Artificial fixing of rates of compensation or profit in industrial enterprises is a very dangerous practice.

STATEMENT OF VICTOR MORAWETZ

Undoubtedly, some workers are not paid adequately in relation to others and it would be desirable to give all workers a better return for their labor if it were practicable to give it to them. However, all the workers cannot receive more than the aggregate amount they produce, and to increase the wages of some of them by establishing a minimum wage would increase the aggregate production little, if at all. Its effect, therefore, would be merely to change the existing division of what is produced.

So far as a minimum wage would increase costs of production and prices, the burden of the minimum wage would fall upon the consumers of the articles affected, including all workers in the community. But if the increased cost of production should prevent New York industries from competing successfully with industries not subject to the minimum wage requirement, it would diminish production in New York and take away employment not only from those whose wages it is desired to raise but also from all other workers in the same business. Furthermore, it should not be forgotten that under a minimum wage law employers would give no employment to workers who are not worth more than the minimum wage and would always choose the best workers they can obtain at that wage, the result being that many of the poorest workers would be deprived of all means of earning anything.

STATEMENT OF EVERETT P. WHEELER

My main objection to the proposition to fix a minimum wage by law is this. There is no legislative power to compel employers to employ any particular person, any more than there is to compel any particular person to work. When slavery was lawful in some of the States, the master could compel his slaves to work and on the other hand was obliged to give them a living wage. When they grew old he had to take care of them. The advocates of slavery used this as an argument in its favor. But the opinion of the majority in this country was that slavery was a great evil and that whatever benefits might ensue from the conditions referred to, they were more than overbalanced by the evils. The war settled that; the Constitution was amended so as to prohibit it. Yet now in another generation we see humane people proposing to revive some of its features. The effect of a minimum wage as applied to unskilled labor will necessarily be to throw a great many unskilled laborers out of employment. If they are unworthy of the wage fixed by law, they naturally will not get any work. My observation of life leads me to think that it is better for a man on the whole to scratch along even at low wages, than to become a pensioner on the State. Everywhere you will find that people with any self-respect are unwilling to go to the poor house. That is really an asylum provided by the State for those who through age or lack of skill cannot earn a living.

Again I find a fallacy in a great many of the statements that are quoted by theoretical social workers in regard to the cost of living. Many plain people live in what seems to them sufficient comfort on very much lower wages than these philanthropists think possible. The difficulty in this country as it presents itself to my mind is that there are many rich people who never earned a dollar in their lives, mostly women who enjoy the fruits of the labor of the men, who write a great deal on these philanthropic subjects without knowing the actual facts.

I speak with the more confidence on this subject because during my long life I have made it a point to mingle with the plain people a good deal. I have been active in local politics. I am

the founder of one of our settlements, and was the first head-worker. I have done a good deal of Sunday school work, worked on my grandfather's farm when I was a boy, and now own a farm of my own. In this way I have had a very varied experience and think have kept in touch as much as any man of my profession with the actual plain people. For years I collected the rents of a block of tenement houses and came into normal relations with the people. Many philanthropists consider only the very poor, those whom General Booth called "the submerged tenth," and do not understand how self-respecting and happy the majority of our plain people are.

IV. REPRESENTATIVES OF LABOR

STATEMENT OF EDWARD A. BATES

This is an important problem in the economic and industrial life of the State and should be given grave consideration. If an effective solution is to be had many matters which are allied and linked with it must be considered, such as hours of labor, hygenic and moral surroundings. This, of course, on the assumption that the object of establishing a minimum wage is to elevate the condition of the female workers.

As a trade unionist I believe the only real way to elevate the condition of wage-earners is by and through organization. It is true that labor unions, in fixing scales of wages, establish a minimum wage, but this wage is fixed at such a figure that any member of the craft would be able to *live* and not merely exist. Besides the wage agreed upon, other conditions are looked after.

I am somewhat skeptical as to the advantage to wage-earners of the State regulating wages. History demonstrates that where it has been done in other countries it has created a condition akin to slavery. If the State arrogates to itself the privilege of establishing a minimum wage for females, what is to prevent it regulating all wages?

There is no question but there is a crying need for assisting the female wage-earner, especially in the mercantile establishments of the State, but it is a question if minimum wage legislation will solve the problem. Is there not danger that female employees in factories and offices, who are now receiving a little beyond a mere living wage, would sink to the minimum rate established by the State? This is the history largely of minimum rates established by trade unions.

Some states have enacted legislation along this line. The laws have not been in operation long enough to judge with any degree of accuracy what is to be accomplished. It is to be hoped if enacted, that the law will do what its promoters intend it for—the rescue of the thousands of ill-paid female workers. It will require time demonstrate this.

STATEMENT OF HOMER D. CALL

I am heartily in favor of legislation establishing a minimum wage for women, and make it sufficiently high, to insure them a decent living. I favor that, because of the fact that they are not well organized throughout the country and their occupations are such that it makes it difficult to reach them, and they are also deprived of the priviledge of the ballot and can have nothing to say through a political affiliation, as to what the laws shall be to govern them; therefore, I believe it is only a fair proposition to establish a fair wage by law. But as to men, who have the ballot, and also the full opportunity to organize for their own protection, and if they haven't sufficient ambition to do so, and through the medium of arbitration secure a fair and honest division of the profits on their labor, let them accept the situation as it is and make the best of it, until they are willing to make an effort in their own behalf. I believe that any effort to aid them through legislation is time wasted.

STATEMENT OF TIMOTHY HEALY

It affords me pleasure to answer your recent communication, requesting my opinion on the importance of legislation towards putting into effect a minimum wage law for the benefit and protection of working people in the State of New York.

With regard to the advisability of enacting such legislation, my long experience and association with men interested in all questions relating to the interests and welfare of labor, warrants me in advising your Commission that there is no doubt in my mind that such a law would prove itself a lasting benefit to all who may be directly benefited or protected by it, as well to the public in general throughout the Empire State.

The trying conditions forced upon all classes of labor, under modern industrial wage systems, make it essential that the State should adopt suitable laws for the protection and welfare of all persons who depend on just compensation for a decent living for themselves and their families.

While it is thoroughly established that women and minors deserve and should receive the first consideration in the enactment of minimum wage laws, yet the fact must not be overlooked that for the most part women and children are dependent on the wages of men, and when circumstances force upon men the acceptance of wages below an amount sufficient to provide food and shelter for such homes, the women and children are again burdened with great hardships and distress.

My conclusion, therefore, would be that a minimum wage law protecting the interests and rights of working people in general is necessary to conserve the health and happiness of all who toil for a living, and the economic welfare of the State at large, and in the successful application of such law, I see nothing to prevent it.

STATEMENT OF JAMES P. HOLLAND

Since the formation of organized trades in the labor movement, the minimum wage question has received much favorable consideration, not only by its leading advocates in organized labor, but by the membership in general and judging from the result of which, I may say that a suitable law, recognizing this important moral and economic principle of governmental protection and justice would receive the sanction of the general public as well as confer a genuine benefit on all persons dependent on wage earnings for a livelihood.

But with regard to a minimum wage law in its specific effects upon men, women and minors, recent industrial investigations and reports have established the urgent necessity for effective legislation covering all classes of wage earners. The fact remains, however, that women and minors suffer far greater disadvantages than men under the present wage system, and for the purpose of establishing not only their natural and lawful rights, should the proposed law commend itself, but the far reaching economic importance to the general public in protecting this helpless class of labor from unscrupulous employers, who make a specialty of exploiting them, cannot be overestimated.

With regard to the enforcement or administration of such legislation, I see no reason why it could not be administered with the same degree of facility as the Workmen's Compensation Law, the regulation of legal interest rate charges by State governments in protecting the rights of capital from unreasonable charges, and by the national government in dealing with problems coming within the jurisdiction of the Inter-State Commerce Law.

STATEMENT OF EMANUEL KOVELESKI

I am heartly in favor of the enactment of the law, creating a minimum wage large enough to allow the women to live as Americans should. The law should be a drastic one; any violation of same should be punishable by imprisonment, and not a fine of a few dollars, which employers of women could readily pay. It is a shame and a blot on the fair name of this, the great Empire State, to allow employers to pay women such small wages; in many cases so small that it saps away the ambition and compels women to sacrifice their honor, and where they have strength enough to resist temptation, their food and living environment unfit them to become mothers. My wish is that the Commission keep up its good work until the wages paid our women will compare favorably with those paid in other States. Every man running for a political office, should be made to declare himself in regard to this important subject, and should his decision be unfavorable, strong effort should be made to defeat him, and elect those who favor a law governing the minimum wage for women. It is a very difficult thing to say just how much the minimum wage should be. In my opinion, $10 per weeek would be small enough. In regard to minor children, I would favor the enactment of a law forbidding any child to work in this State under the age of 16, and if it can be proven that a family is not self-sustaining, some provision should be made by the State to keep them. Every case should be thoroughly investigated, and no permits given to children under 16 years of age.

STATEMENT OF JAMES M. LYNCH

In your communication of October 1st you ask for my views on the subject of minimum wage legislation, and I have not replied earlier for the reason that it is somewhat difficult for me on such a far reaching and revolutionary subject to fully and clearly express myself on paper.

Of course, all right thinking citizens will favor the proposition of a minimum wage for women considered by itself, but to me, and as a result of my experience in the trade union movement, there are other dangers and difficulties associated with the problem that must be taken into consideration. One of the greatest of these is the conditions under which the woman worker is now, and then will be, obliged to labor and the discrimination, deductions and fines that might be levied against women under the minimum wage, so that in the end the actual wage would be no greater than at present, and the burdens of employment made appreciably greater.

If the law, establishing minimum wage provisions administered through non-partisan minimum wage boards, will also give to these boards the right to review and fix not only wages but all working conditions and the authority to set certain standards below which these conditions shall not go, then I believe that many of the evil effects that I have in mind will be minimized, if not entirely obliterated.

The Oregon minimum wage board idea might be adopted with such changes as may be necessary in this State, but the powers of these wage boards should be amplified, subject, if advisable or desired by either party to a wage adjustment, to review by a department to be added to the State Labor Department. It should be borne in mind that this is the great industrial State of the Union, and that all social legislation enacted in this State has its later effect and generally its counterpart in other States, and also that it bears more heavily on industry in this State than in any other State.

STATEMENT OF HELEN MAROT

The position which I take on wages boards is the one which I consider is valid for trade unionists.

All unionists oppose the creation of wages boards for the regulation of wages in organized trades. Also all unionists oppose the fixing of minimum rates of wages for men by the State in either organized or unorganized trades. In other words there are unionists who have endorsed the movement for minimum State rates for women. This distinction, which a minority of trade unionists have made I do not consider sound. If women need State protection on the ground that they do not organize as men do, then also do the mass of unskilled, unorganized men who do not appreciate or take advantage of organization. Moreover it has not been proven that men depend on organizations of their own and that women do not. Men outnumber women in organizations as they outnumber them in industry. The reasons for trade unionists to oppose the State interference in wage rates apply to women workers as they do to men.

Composition of Wages Boards

The proposition is to create wages boards composed of representatives of workers and employers as well as of the public. It is also the immediate purpose of the boards to operate in unorganized industries. The proposition is self-contradictory. It is impossible to have representation without organization. The workers in a trade are not represented if the State boards or commissions select workers and appoint them to their position. Such workers are representatives of the State. It is a remarkable assumption, in this republican country, to call a man a representative of a group who has been selected and not elected; who has been selected by people not of his group. The promoters of wages boards state that this substitution of appointment and selection for election which gives representation is a temporary expedient. They make the statement that wages boards will induce organization and from this organization future representation will be had. But trade unionists are the only people who are competent to judge what will and will not induce organization. They know that unions are merely nominal which are in-

duced or superimposed by others than the workers themselves and that a nominal union has no power to improve or change the conditions of an industry, that they have no more power to effect change than have individual workers for they have no collective will. Moreover unions which exist in name become a substitute and a mockery of unionism in a trade or an industry.

State-Made Unions

If minimum wages boards live up to their statutory requirements of representation of workers on the boards it is obviously necessary from the foregoing for the State and those working in conjunction with the State boards to impose organization if the boards are to operate in unorganized trades. The unions of Australia, after twenty years of experience with State-made unions created in the interest of wages boards, are realizing the insidious and devitalizing effect of such unions on the labor movement.

Wage Rates Based on Cost of Living

The effect of State-induced unions is no more enervating than is the practice, which State boards presuppose, of basing wage rates on subsistence computations. If the findings of a board fixes the cost of living for one group of workers in a locality at a stated sum, it fixes the cost for all workers in the locality. Subsistence cost is the same for cigar makers as it is for bookbinders or for waist makers. If union men and women agree to the findings of wages boards, i. e., to a minimum wage fixed by the cost of living for any one group they agree to the cost for all. In joint action with the State they have fixed the minimum rate of wages on the mind of the community and have compromised their bargaining force and position as trade unionists. They have surrendered their driving power for static methods. They have rendered themselves incompetent in their own field and have fixed a condition which it is the business of unions to render pliant.

Minimum Rate Becomes the Maximum

The union method is never to agree to a minimum paid in an unorganized trade or one partly organized. A union minimum

is usually the maximum, or near it which is paid in the trade. A State fixed minimum is the minimum for the trade. Unions cannot take part in fixing minima through the State and expect to turn around the next day and fix new minima in the same or other trades of the same level.

It is not a theory with trade unionists that State-made minima will become the maxima. Trade unionists out of their own experience know that maximum rates fall to minimum rates in trades where the union has lost its driving power. It is not the business of a State to act in the interest of labor but in the interest of labor and capital and the consuming public. It cannot act as a driving force for labor. With the State incompetent to act as a driving force and the unions committed to the wage boards award, and their driving force also gone, it is inevitable that State-made minima will become the maxima.

The Fixing of Hours vs. the Fixing of Wages

Why, it is asked, do unionists agree to the State regulation of hours and not to the State regulation of wages? The object of unions is to force hours down and wages up. There is a limitation fixed by natural laws to the reduction of hours. The reduction of hours will at last reach a vanishing point. The interest of labor in wage rates goes the other way; there is no such limit to the possibilities in the driving up of wages. Hope lies that way. It is of advantage in realizing that hope, to establish a fixed number of working hours as a standard or a pivotal point for all labor around which wage rates may be computed and standardized. The more generally the public accepts a universal working day, fixed by organized labor as the standard day, the the simpler becomes the task of collective bargaining for scales of wages. Hours can be universal for all grades and classes of labor, or nearly so. It is desirable for organization purposes that there should be this universal basis for skilled and unskilled labor. It is not desirable from any labor point of view that wages should either be universal or fixed.

It is the claim of the promoters of wages boards that unions have not protected the poorest paid workers nor is it possible for

them to do so, that they should therefore endorse the minimum wage board movement. It will be difficult to persuade the unions that wage boards are the alternative if their creation compromise the function and the power of the unions; if the tendency of State-made rates of wages is for minimum rates to become maximum. Unions realize moreover that the very existence of a virile labor organization in a country among a minority of the workers acts as a protection against wage reductions for the mass of unorganized workers. The latent possibility of a rebellion in an organized trade and the readiness of the organized workers to back up the rebellion is more potent as an economic lever than are State wages boards. It is the first obligation of the unions therefore to resist a movement which would weaken their driving power.

Consumers, who are not wage workers, could make advantageous reports on cost of living. As a consumer he is competent to pass on prices. But it is the business of producers, that is the workers, to determine at what price they will sell their labor.

STATEMENT OF JOHN MITCHELL

Responding to your request for an expression of my views on the subject of minimum wage legislation, I write to say that so far as I know every official and unofficial investigation of the subject of wages that has been made in the United States has resulted in a finding of fact that, so far as women and minors are concerned, the wages paid to a large percentage of these workers are lower than the amount required to enable them to live healthy and normal lives. If, as I anticipate, the New York State Factory Investigating Commission shall find as a result of its inquiries that the wages paid to a large proportion of the women and minors employed in the industries of the State of New York are insufficient to enable these workers to maintain themselves in health and decent comfort, it will be necessary for the Commission to make such recommendations as shall, in its judgment, offer a solution of the gravest of all human problems, to wit: the means by which the weakest and most helpless of our people, from an

enonomic standpoint, shall be guaranteed such remuneration as will enable them to live healthy, normal lives.

Under the industrial conditions existing today it is impossible for each individual wage earner, and especially for each individual woman wage earner, to work out a solution of this problem. Competition for employment, an over supply, even in normal times, of applicants for work, has prevented wages from rising as rapidly as the cost of living has risen, and in many instances has prevented wages from rising at all. The consequence is that as women in ever larger numbers enter the industrial field as wage earners, the struggle among them for existence becomes more keen and acute, and the responsibility of society with respect to the welfare of those engaged in this struggle is correspondingly increased.

The condition of wage-earning women and minors has been the subject of constant solicitude and earnest consideration on the part of the trade unions of our country. Especial and exceptional efforts have been made by the national and international organizations of labor and by the American Federation of Labor to organize women wage earners into trade unions, and to some extent these efforts have met with success. To a gratifying degree, through the efforts of the trade unions, the wages of women in some industries have been increased and the hours of labor reduced. However, it must be admitted that the activities of the trade unions in organizing women wage earners have not met with that general response and effective result that have attended the efforts of the trade unions to organize men and to improve and elevate their conditions of life and labor. Wage-earning women are, as a rule, more difficult to organize than are men. While many women spend their entire lives as wage earners, very few of them enter industry with the expectation of doing so. The average woman expects to marry and have the shelter of a home, therefore the necessity and importance of becoming a member of a trade union, and through this avenue attempting to establish higher wages and better conditions of employment, do not appeal to her with the same force as they do to wage-earning men, who expect to spend their whole lifetime as workers in the field of industry.

Because of this condition it seems to me that society, that is, the State, is under obligation to protect and safeguard the health and well-being of women and girls, since, in the final analysis, the welfare of society itself depends upon the health and well-being of those who are to be the mothers of the generations that are to come. We have no right to expect a better civilization unless we who live now see to it that these potential mothers are guaranteed while they are employed in industry a wage sufficiently high and hours of labor sufficiently limited to enable them to live healthy and normal lives.

I am well aware that many thoughtful, earnest defenders of the interests of the wage-earning masses view with apprehension any attempt on the part of the State to regulate the wages of workers employed in privately-owned enterprises. I am aware that there are among women wage earners those who fear that the establishment by law of minimum wages would operate, in the long run if not immediately, against the best interests of the wage earners themselves. However, so far as legislation of this character is made applicable to women and minors I do not share this apprehension. My judgment is that minimum wage laws applicable to women and minors, if properly drawn, would prove of real and lasting benefit, not only to those immediately affected, but also to society at large.

In making this statement I do not wish to be understood as favoring the fixing of wages by statute. It seems to me that it would be proper and in the interest of justice if your Commission would recommend the creation of a minimum wage commission, such commission to be given authority to organize joint wage boards composed of an equal number of employers and wage earners, in each department of industry in which women and minors are employed, the province of such boards being to consider, and if possible determine, the amount of wages which as a minimum is necessary to enable the workers affected to live in health and decent comfort; and when such determination has been made by these joint boards the minimum wage commission should have power, if it is satisfied that the minimum wage has been made sufficiently high, to make such rulings for carrying into effect its findings as shall have the force of law.

In the foregoing I have not attempted to make detailed suggestions but have confined myself largely to an expression of my views as to the wisdom and the necessity of legislation of this character. I have purposely confined my statement to women and minors. I do not believe that it would be advisable to create minimum wage boards having authority to regulate the wages of men.

STATEMENT OF ALBURTIS NOONEY

(Approved by the Central Labor Union, Hudson, N. Y.)

Wages should be determined by the cost of living, and the minimum should be high enough to give the worker enough to live decently and a fair margin for contingent expense, for wholesome pleasure. It should give the wage earner a satisfied mind and a wholesome existence.

Our country can afford all these things, and there should be regulation by the State or national government. The effect on the employer and employee would be to bring them to a more thorough understanding of their moral obligation to equality. It would make the worker more efficient, encouraging a higher standard.

These things should be looked after by our government through a commission, non-partisan and efficient in dealing with such problems.

I believe your Commission is working in the right direction and should get at the heart of this serious problem. Also, the aged worker should have some consideration, after a life of hard labor for the profit of others. Many an old man or woman sees nothing but the charity of others or the poor house after a life of toil for small pay. I am having that experience — broken in health and well along in years.

STATEMENT OF JOHN T. O'BRIEN

I favor a minimum wage of nine dollars per week for women, except in employment where they have displaced men. I believe they should receive equal pay for equal services rendered. It is impossible for a woman to live decently on less than nine dollars per week.

STATEMENT OF MARGARET DREIER ROBINS

It gives me great pleasure to answer your inquiry, regarding the position of the National Women's Trade Union League of America on the question of Minimum Wage Legislation.

I am glad to be able to refer you to the proceedings of the three Biennial Conventions, Chicago, 1909; Boston, 1911; and St. Louis, 1913, in which the question of Minimum Wage Legislation was discussed and voted upon. Since the Chicago Convention of 1909, the establishment of "A Minimum Wage Commission to create Wage Boards for each industry having an equal representation of employers and workers, and representation from the Public" has been included in the Legislative Program of the National Women's Trade Union League.

In further explanation I should like to state that we feel convinced the best results of minimum wage boards will be obtained:

First, by creating separate wage boards for every industry to be investigated and coming under the jurisdiction of the Minimum Wage Commission — such industries naturally representing the sweated industries, whether in the homes or factories.

Second, by the workers electing their own representatives on the wage boards — thus establishing the beginning of self-government, so essential to industrial democracy.

Third, by guaranteeing the right to a rehearing upon the petition of any person from either side.

We also believe that the wage boards must be authorized to change the minimum wage rate whenever change in conditions makes an increase in rates possible. By way of illustration, I would refer you to the decision of the "Chain Making Board" in England, which on December 2, 1913, confirmed proposals to increase by 10 per cent. the minimum rate it established in 1910.

The National Women's Trade Union League is unalterably opposed to the establishment in the law itself of a fixed rate of wages per day, or per week — the so-called flat rate method and the one enacted into law in Utah.

To present the position of the National Women's Trade Union League as clearly as may be, I quote from my report on the mini-

mum wage question given to the Fourth Biennial Convention at St. Louis, June, 1913, and adopted by the Convention:

"No one will deny that however difficult the problem, we find ourselves under conditions demanding immediate action. The right to live and the right to a living are indistinguishable terms. The question of the low wage must be met * * *.

"The chaotic conditions of many of our industries gives no basis for a wage, but the will of the individual employer, and the girl's poverty and inexperience forces her consent. This was well brought out by the Minimum Wage Commission of Massachusetts, when it was found that in the candy industry, for example, one of the employers was paying fifty-six per cent a week less in wages than another employer in the same town. The elimination of this unfair competition will be one of the immediate results of the minimum wage, and will help to standardize industry.

"The industry which cannot pay a fair wage is parasitic, and receives a subsidy from the community through its public or private charities, through its clinics and hospitals, through its reformatories and prisons, through its almshouses and homes for the aged. We are living in the midst of a "wealth-producing, poverty breeding" industrial chaos. The demand for the minimum wage on the part of the general public is simply the statement that it is tired of subsidizing industries. Through such subsidies it has enabled many an employer with no business qualifications whatever, nor knowledge nor judgment, to open an industry, put the wage as low as conditions permit, quite certain that the community will bear the burden. It would seem that a training school for employers is as essential to the welfare of the community as a trade school for workers. Just as the most important knowledge to the worker is the value of his or her labor power, so the most important knowledge to the employer is that a living wage is the first charge upon any industry. If we have classes for the salesmanship of lace and jams and linens and silk, how a thousand times more important is it to have training in the salesmanship of labor values * * *.

"But if there is the darkness of tragedy here, there is also the light of heroism. It is essential that it be definitely understood

that there are girls by the tens of thousands who have maintained the integrity of their womanhood in the face of great personal sufferings and self-sacrifice, as well as in the face of grave temptation. I know girls who have lived twelve in a room, on twelve mattresses, because their earnings did not permit them better sleeping accommodations, and who have lived for three years at a stretch on rye bread and olive oil, unless invited out for a meal. I know girls who have simply paid for the space of half a bed during the night when the same bed was not only shared by them during the night with another girl, but had been used by two other girls during the daytime, these other girls being night workers. I know girls who take it as an every-day matter-of-fact experience of working girl life that they should daily go without their lunches. I know girls who have entered a saloon because they could there get a bowl of soup as well as a glass of beer for five cents, receiving in that bowl of soup better nourishment than any other expenditure of such five cents could bring them. I know other girls who, with equal "matter-of-factness," never think of spending money for car-fare or lunches or laundry or outings, and never dream of earning enough to make life even half-way decent and comfortable or giving a chance for any realization of aspiration or ideals or education — or sweetness of fresh air in the mountains or by the sea — and yet these girls by the tens of thousands, in the face of such constant denial of all that makes life worth while, have held their womanhood intact and protected its integrity. To the courage, the grit, the fineness of character all can testify who know intimately the daily life of the working girls. But well may we question the civilization, the democracy, the Christianity of a community tolerating such conditions. We are demanding in the every-day life of our working girls the stuff out of which heroes and martyrs are made. Some of us would like to see the conditions of industry so arranged that everyday folk like you and me might have a chance of earning our daily bread "on the square." The question of the wage is not whether a girl can or cannot hold her own in the face of suffering and poverty and temptation, but whether any able-bodied intelligent young woman is to put all the years of her girlhood and womanhood, all the possibilities of the joy of her motherhood, in jeopardy

because she is giving her all in service without receiving sufficient remuneration to make possible decent nutrition, decent clothing, decent living conditions for herself, conditions making for the education and development of all the fine powers hidden and held within her. The most costly production of any nation, and its most valuable asset is not its annual output of corn, neither the wheat harvest nor the yield of coal or cotton, but its output of men and women. Upon the quality of each generation depends the strength and greatness of the nation. This we recognize by providing that the State shall care for the health of the people and contribute to their education. Is it not, therefore, time for us to insist that the State cannot afford to put in so great an investment, only to reap the continuous loss of the defeated young lives that go under in the industrial world?

"The demand for a minimum wage must include some definition of that minimum, otherwise none of us know exactly of what we are talking. A living wage must certainly mean sufficient reward for labor to provide health-giving food, good clothing, shelter with sunlight and air and warmth and comfort, education and recreation — books and music — sufficient reward to tide over periods of sickness or other unemployment and to make provision for a happy and serene old age. It must give opportunity and time not only for the development of the powers within us, but also for expression of human fellowship. It is well for us to remember that the loving cup is as old as any hunger, and that to enter into the labor and festival of life is part of the eternal quest of the human heart.

"We all know that to bring about conditions making possible such a living wage more than the creation of minimum wage boards will be necessary However, the placing of the sweated industries, and such others as the community may see fit to decide upon, under the jurisdiction of minimum wage boards is but a further attempt to standardize industry. This is no new undertaking. In most of our states we have factory laws prescribing what Mr. Sidney Webb so aptly terms "the minimum conditions of the wage contract"; a legal minimum of education for the child, a legal minimum of sanitation and safety, and by prescribing a maximum workday, a legal minimum of leisure and rest. All these minima repre-

sent the community's demand for a standard of industry, and with our growing knowledge of the overshadowing menace of the low wage, we naturally include a wage minimum.

"To bring the best results, to bring technical knowledge, accurate data and experienced judgment to bear on this grave question, minimum wage commissions should consist of men and women representing the public, representatives of the employers in each industry, and representatives of the workers in each industry, elected by the workers. That a minimum wage can be established in the sweated industries has been proven beyond all preadventure of doubt by the victorious strikes in the garment industries which we have now witnessed in the leading cities of America for the past four years. Such victories express, indeed, the best hope of our day. The question is, can we afford to wait for such social uprisings in the other sweated industries? Is it not true that the minimum wage boards will not only help to establish minimum wages, but bring to the least of the little girls in such industries, the opportunity of organization and self-government."

The Amalgamated Journal of the Iron, Steel & Tin Workers states concisely what some of the organized working men and women hope to bring about by the establishment of minimum wage legislation through minimum wage boards.

"Many classes of wage earners who would be benefited and protected by minimum wage legislation, have been living too close to starvation to make possible any reasonable amount of concentrated action on their part, or such preparation, financial or otherwise, as would ordinarily be considered essential for success. To all such classes of wage earners minimum wage legislation should be valuable as establishing an existence basis from which they are in a better position to achieve further improved wages and conditions through organized effort. A woman wage-earner receiving a minimum wage of $8 per week is on a better basis on which to secure $10 per week, than the same woman getting $4 is in a position to get $5."

Although minimum wage legislation is seventeen years old in Australia, and now covers over one hundred trades, such legislation represents a mere thought in America, and it is natural that there should be very honest differences of opinion. We, who

believe in it, see in the establishment of the minimum wage — through wage boards — a chance for life to the most exploited of our fellow workers, an opportunity to better conditions through united action, an opportunity to self-government — and self-government is essential to the making of a free people.

STATEMENT OF HENRY STREIFLER

The minimum wage works out to a very satisfactory result from a trade union standpoint where that is agreed upon between the representatives of the particular trade and the employers of the men who are engaged in such work. Whether that would work out as satisfactorily were it a law, I have great doubts about the same, from the fact that my experience has been that we get better results where matters of this kind, especially where a financial consideration is involved, are agreed upon in a voluntary manner by both sides interested as employer and employee.

V. EMPLOYERS AND THEIR REPRESENTATIVES

STATEMENT OF JAMES F. ADAMS

I believe that a minimum wage law would be beneficial to the employer and employee. Beneficial to the employer who wishes to do right because at the present time he cannot pay more than the prevailing rate of wages and compete with others, and to the employee who is then assured of a certain wage and, to a certain extent, would thereby be made free from local and trade conditions which might tend to reduce wages in a particular section.

The argument that the inferior or inefficient worker would be thrown out of work is worthless, as no one to-day keeps the inefficient worker when he can get better help. The minimum wage would not tend to bring all wages to that level, as the only way to keep efficient and experienced help is to pay them consideration to keep them from floating. All successful firms do this to-day and will continue to do so.

The minimum wage should be set on statistical records of the liability to accident, loss of time through trade and weather conditions, the effect of the work, etc., on the health of the worker, and allow for a fair living wage for a family of five.

The law should also include a compulsory arbitration clause which would be binding on both sides in case of strike, and be free from technicalities, which would allow either side to hold settlements up for any extended period.

I believe that it should be a national law, as the tendency to-day in inter-state trade is for factories to move into, and new factories start in states where the laws do not call for strict regulations.

This law should also limit the salaries paid to officials, as the present method of allowing unlimited salaries to officials of corporations allows them to deprive minority stockholders, and indirectly the employees and consumers of a considerable amount in the aggregate which should be available for dividends and wages.

We are also in favor of having the retail price of all products, whether raw or manufactured, set by a commission which would allow for a fair profit in addition to healthy expansion of the business and for jurisdiction over the wages of the workers.

STATEMENT OF L. ADLER BROS. & CO.

The effect of minimum wage on the employer is: Under slack conditions, very little. When help is scarce there will be a flow of comparatively inefficient workers into the state with an abnormal increase in cost of manufacture.

On the workers is: To throw out of employment the inefficient, except in times most prosperous.

On the opportunity of obtaining a higher wage than the minimum, is: To lessen the power of the employer to pay in accordance with the ability, in all competitive industries. An employer in a State under local laws, entailing upon him a greater expense than that under which his competitor in another state is working, is naturally limited to what he can do for his workers. In any business there is a limit to what can be paid to the workers. If the the state law insists upon paying to the inefficient more than is properly due them, it stands to reason that less will probably be paid to the exceptionally efficient, or that the whole wage scale will be held down.

On the price of the product of industry affected is: Every state law increasing the cost of the product, places the manufacturer in that state at just that disadvantage with competitors in other states. When the disadvantage becomes sufficiently great, it drives the manufacturer out of business or into another state.

We are in favor of a minimum wage; we believe, however, that the minimum wage should only be so high as to prevent the exploitation of labor.

STATEMENT OF ROGER W. BABSON

Reprinted From Confidential Bulletin No. 1–12, *August,* 1914, *of the Babson Statistical Organization, by Permission*

Briefly, we believe that the employees are entitled to a greater share both in the profits and in the management of industries; but we do not believe this can be brought about artificially by legislation. Prices, rents, wages, and interest depend upon the relation between supply and demand. Every attempt to ignore these fundamental laws of supply and demand, action and reaction, or

reward and punishment, is like trying to stop the earth from revolving on its axis. Yet minimum wage legislation is very popular and those of us who oppose it are regarded as medieval and hard-hearted plutocrats.

First, let me make clear that the tendency toward minimum wage legislation is strong in every state in this Union. This is the day for short cuts, and the day for political buncombe. The advocacy of a minimum wage apparently is one of the best opportunities for combining these two. The public will, in any case, pay the bill, so there is nothing for the employers to object to, provided they are all treated alike. Moreover, a minimum wage will tend to eliminate apprentices, and may make it unnecessary for employers to train their own clerks. If a young person has initiative enough to learn, he or she will automatically graduate into the minimum wage class. If not, this young person will be brushed aside. In either case, the responsibility will fall upon the employee and not upon the employer, when the minimum wage is in effect. Therefore many say: "If the public demands a minimum wage, why not grant it? It is the public which must eventually pay the bill."

With universal minimum wage legislation, increased prices will take care of the increased expenses and leave profits the same; in fact, those who figure profits on a percentage basis should have a greater profit under the minimum wage system. Hence, from the employer's point of view, there is little to fear from minimum wage legislation. For this reason we advise clients not to oppose the trend of the times nor say anything in this connection which may offend public patronage or cause customers to think that they are employing under-paid women. Were it not for the opposition of some conservative labor leaders, who have begun to see a danger in the minimum wage, its general adoption would be a foregone conclusion. When its adoption becomes general, however, the reaction may be as severe.

What is to become of young apprentices and old employees who cannot earn even the minimum wage and will therefore be thrown out? In hundreds of families, even the two-dollar cash girl is helping someone else, and in such cases, it is the combined wages of the entire family that should be treated as the unit. If only

the efficient are to be given employment, how can any one learn to be a skilled worker? If one must be shelved after he or she becomes too old or feeble to be capable, who is to give the needed support? Employers very well know that it may be to their advantage to have one twelve dollar a week woman who will not need to be watched and taught, rather than two irresponsible six dollar a week girls! Moreover, employers may, when the six dollar girl deserves a raise, drop her, and employ another at the same wage, instead of giving the older one promotion. In practice, can the minimum wage be limited without unconsciously limiting the maximum wage also?

If the law would send home those girls who are working for a low wage simply to provide themselves with a few luxuries, since their fathers are quite able and willing to support them, or send home girls who are really needed in the home to assist in the housework or to lift the burden for overworked mothers, well and good. Such girls should be taken out of the stores and offices in order that their places may be given to those who must help to support others or who have no one to look to for aid in the battle of life. But no such good result comes from minimum wage legislation.

When England, Germany, and United States sent commissioners to New Zealand and Australia to investigate the results of their minimum wage laws, not one could give a wholly favorable report. The favored complaints that the law causes jealously and hatred, that the old must starve, and the young have no incentive to spur them on to effort. Those unworthy of the minimum wage are forced into the sweat shops, while those who are hired for such wages, if indolent, do not try to improve and are discharged for laziness. In many New Zealand factories unskilled workers are dropped at the end of three trial years in order to evade the law. In various manufacturing plants where employers have, voluntarily or by law, adopted a minimum wage system, they freely acknowledge that they will employ only skilled labor, as they cannot afford to teach incompetents with universal minimum wages.

Should the State be compelled to support those who will not earn a minimum wage? The State is you and I. One woman may be discharged on account of a disposition which makes it

impossible for others to get along with her; must the rest of us who can keep our temper and earn our living pay for her support? Another will not work in a certain locality, nor where she cannot have certain amusements; must we, who sacrifice our preferences and deny ourselves pleasures, pay taxes to keep her in idleness? Some of the greatest people the world has ever produced began earning at an almost incredibly low wage figure; shall such have no opportunity to find out their own possibilities? In Massachusetts, 79 per cent. of the women earn less than $459 a year. Must the remaining 21 per cent help to support this large majority?

Germany, France, and Belgium pay to their workers only a fraction of the wages paid in America, yet they have no such problem. This is because they have a regular system of insurance against old age, illness, and want, so that all, including the subaverages, are compelled to look out for the future by having a certain per cent. of their pay deducted for old age insurance, and another for illness insurance. It does no good for state commissioners to decide that no woman can live wholesomely on less than ten dollars a week. The fact remains that many have to live in some sort of way on less than that, for many are only beginners, others are hoplessly inefficient, or are old and not worth even the minimum wage suggested. Some system of insurance is far more practical.

In the long run, the wage question can be settled gradually only through education and religion. If we will grasp this fact and keep it constantly in mind, we shall have no trouble; but if we experiment on various "get rich quick" plans for employees, it will be necessary to retrace our steps at much expense.

Employees must learn that a continued increase in wages is absolutely dependent upon increased efficiency and greater economy and that only education and training can increase the efficiency of the masses. *On the other hand, employers must learn that the present capitalistic system is inhuman, wasteful and unjust, and that only when recognizing this can they intelligently negotiate with labor.* Furthermore, employers of labor must realize that human rights are more valuable than property rights and that really "it is more blessed to give than to receive."

From reports coming to this organization from all parts of the country, I am convinced that the solution of the wage question must be worked out through co-operation and not through legislation. We employers must be willing to make some sacrifices and take our pleasure in helping our employees rather than in building up a name or fortune for ourselves. Likewise, the working people, if they are to co-operate with us, must endeavor to develop in character, health, and usefulness, so as to be worthy of the partnership. Hence, I say that all these artificial means, such as minimum wage and compulsory arbitration, will be found to fail. The solution will come when all of us, employers and employees, have more of the right kind of education and righteousness. This, however, does not mean "book-learning" and "theology."

STATEMENT OF M. M. BRUERE

This institution, the National City Bank, of which Mr. Vanderlip is president, employs between 60 and 75 women in the capacity of stenographers, typists, filing clerks, telephone, multigraph and addressograph operators. The minimum salary paid in any department is $12 per week. It is regarded by the management as axiomatic that to secure competent service a commensurate wage must be paid. Moreover a regard for the development and the well being of the entire working staff as an important factor in maintaining the service of the bank at a high degree of efficiency is expressed in the provision free of cost to all employees of —

1. A hot luncheon, wholesome and ample, attractively served.
2. Educational classes designed to enlarge the opportunity and increase the capacity for service of the members.
3, Social opportunities which it is thought engender a sense of fellowship and a finer esprit de corps.

It is conceivable that certain difficulties may arise from a minimum wage law in cases of highly organized trades, but for those trades not well organized, or not at all organized, protection from exploitation and insurance against starvation wages would seem easily to outweigh even such difficulties as in the wisdom and experience of the framers of the law might not be anticipated.

STATEMENT OF FRANK R. CHAMBERS

It has always seemed to me that any attempt to fix a minimum wage scale by legislation would prove abortive because fundamentally the scheme is impractical.

Assuming, however, that such a measure were attempted, the effect would be to deprive the inefficient of the possibility of earning such wages as they now receive. This has been the result where trade union rules have enforced a minimum wage.

Might it not be that such a measure would tend to drive out the small manufacturer and trader, who now maintains his business by the employment of low priced labor and who would find it impossible to compete with the larger operators upon an equal wage scale? Then again, we have to deal with a steady influx of immigrants who must live and who can only earn small wages until they have acquired efficiency.

I feel that the State is doing its full duty when it supervises the conditions under which its citizens work, so as to provide as far as possible for their safety and health and the education of the young.

STATEMENT OF RICHARD S. CHILDS

I am the director of a small corporation employing a number of girls in Brooklyn to whom we pay less than the $9 a week which probably constitutes a living wage in that borough. On the other hand, we pay $1 to $1.50 per week more than the prevailing rate of wages in that labor market. That is to say, we can hang out a sign in front of our factory saying "Girls Wanted — $4.50 a week" and get applicants galore who are capable of doing the class of work which we require. I am convinced that they are the same girls that come to us when we hang out the sign saying "Girls Wanted, $6 per week." We pay the higher wage as a concession to our own self-respect, and because the business in recent years has become profitable enough so that we can easily afford it. If our competitors would raise their wage standards, we would be willing to go higher than they do with our wage rate, on the principle that we are strong enough to accept a certain amount of handicap in this matter.

The labor element constitutes by far the largest element in the cost of our product. The retail price is firmly fixed by custom. We would willingly accept a legal minimum wage which applied to our competitors as well as to ourselves, feeling confident that such an increase in labor cost would extinguish some of our competitors and so broaden our market in a way that would give us an opportunity to make enough money to balance the increased labor cost. We are the ablest company in this particular business and make the best product and have the largest proportion of sales, but there is a limit to the amount of work for humanity which we can do or which we could properly be asked to do. Any minimum wage proposition which will protect us from the present unfair competition of those who do not scruple to pay the lowest wages possible, will be a boon to sound industry and wholesome trade conditions.

STATEMENT OF HENRY CLEWS

I heartily approve of a minimum wage scale for women, and would favor proper legislation to further such a measure, but I do not believe that action should be hasty or that mere sympathy should be the only guide. One of the greatest faults of the labor unions is that they do not grade the workmen into classes: Class 1 to include only those who do first class work; class 2 to include those who do ordinary work well, but not so well as to entitle them to rank A1; class 3 to include all not worthy to rank with class 2 either in ability, skill or general fitness. It is a great injustice to a first rate mechanic to gauge his work to the level of an inferior workman, as it stifles his ambition, and naturally hurts his pride, which in time impairs his efficiency. The same rule applies to women as well as men. It is no more fair or just to a man or woman who does high class work at the same pay as an inferior workman, than to compel an artist who gets $1,000 for a picture to have the value of such a picture reduced to the level of the production of those who have never painted a picture thought to be worth more than $100.

Some opera singers command $1,000 a night. Would it be fair or just to them, who are known to be the best in the world, to have

their remuneration put down to the level of a member of a church choir? This argument can be followed out indefinitely, and it is so convincing that it admits of no denial.

Yet the A1 mechanic is like a fleet, the speed of which is limited by the speed of the slowest vessel in the fleet.

The labor unions have done lots of good and I believe in them. They have been instrumental in having laws passed which have revolutionized the sanitary conditions surrounding workmen; which in itself tends to elevate the race and make better citizens.

Child labor is a problem which will require the most thoughtful consideration. The theory of those opposed to it is an excellent one. Yet there are thousands of cases where, if the children of a poor widow were debarred from any kind of labor, the family would starve to death. An absolute ban on child labor, therefore, would be unjust and almost criminal. Many sturdy citizens of this country worked hard in their childhood, and have grown up strong and healthy.

I would suggest that a board of censors should have the discretion of granting special permits to children whom necessity compels either to work or suffer. It is sad that families whose support has been taken from them by death or desertion of the father should suffer want; but suffer they do, and even children may of necessity be compelled to aid in procuring food and clothing for themselves.

As I have said, the questions of a minimum wage for women, and of child labor, will require careful consideration, and I would be deeply gratified if a law could be passed that would be equitable and fair to all.

STATEMENT OF JAMES G. CUTLER

I do not feel that I have any experience or knowledge on the subject which would be of service.

I am inclined to think, however, that the establishment of a minimum wage would not be altogether satisfactory from the point of view of the wage earner, for the simple reason that if the employer be forbidden to pay less than a certain amount, he will necessarily feel obliged to discriminate against a grade of work

people whom he might otherwise employ at what he believed their services to be really worth.

I have the feeling also that there is an unfortunate tendency at the present time to discourage individual effort and individual ability and I am very skeptical as to the possibility of permanently advancing the interest of the man who works for wages by legal enactment with respect to his pay.

STATEMENT OF FREDERICK L. DEVEREUX

I have had supervision over the employment and work of employees (both male and female) for eleven years under widely varying conditions.

The factors which determine the rates of wages are analogous to, but perhaps even more complex than, the factors which determine the price of any other commodity. The fundamental factor, however, is the relation of effective demand to available supply.

Wages, as determined by competition, or this fundamental law of demand and supply, do not tend generally to equal what is desirable from the point of view of society as a whole, and a more equitable distribution of the products of industry, if practicable, is to be wished for. It is a question, however, whether it is the province of the State to attempt to confine the operation of the law within artificial limits any more than it is its function to decree the minimum price which the farmer shall receive for his grain.

Any increase in wages beyond the point determined by competition is effected by the prosperity of individual firms, and their policy of admitting their employees to a share of the profits which they have in part created. While this recognition of the employees as partners in the business is commendable, and seems to be the present tendency, I do not believe that it can be attained through legislation.

The establishment of an arbitrary minimum wage would not be advantageous to labor, for employers whose narrow-minded policy seems to call for legislative action would find new ways of evading their responsibility, either in a reduction of the num-

ber employed and a demand for increased output, or a levelling of wages in which the wages of the efficient would be lowered in order to pay the less efficient the required wage.

A minimum wage would work unfairly between two companies, one of which gives careful attention to the working conditions and welfare of its employees, makes adequate benefit provisions in case of sickness, accident, retirement or death, and interests itself in the training and advancement of its employees, and one which contents itself with the payment of the wage prescribed by law and takes no further interest in its help.

No matter how low the minimum wage that is adopted may be, there will be some in all industries who are not worth that wage. The result will either be a loss of employment to this class, or their payment at a loss to the company, which must recoup the amount from the more capable employees, who thus are actually injured by the law.

The increasing interest taken by employers in their employees is one of the most encouraging features of the times. The far-sighted employer is beginning to see that low wages do not necessarily mean cheap output, and I believe that there is spreading among employers as a class an enlightened self-interest which sees that a contented, well nourished employee is more efficient than a worried, poorly fed one.

This tendency should be encouraged and extended by proper publicity and recognition, rather than by a resort to a minimum wage law which would certainly be a detriment to the more capable classes of labor, would benefit no class permanently, and might interfere with the present tendency to so develop employees in a proper working environment that they may not only receive but deserve better wages.

STATEMENT OF H. DOWIE

The question you have asked is one of many, many sides to consider.

I believe one's labor is his capital. The value of same depends not only on quality but conditions of the market.

Conditions govern the markets of all products. For instance, at present thousands would be willing to do any thing for a price far below regular wages, and still nothing to do.

I believe to be successful all must have an incentive to do better. This does not exist in equalizing wages. In all large cities we have always a surplus of unemployed.

What causes the low price paid? It is our gates are open to the world to enter and by thousands come those who can live and save on an amount an American could not and be respectable.

Close the gates until such time as we may be not only able to civilize but naturalize what we have already. We know a boy brought up in poverty may rise to be president. We know a boy brought up in poverty may become a great financier. Hence let a good man, boy or girl have the opportunity given them to rise not controlled by wages which will be for the average. We pay today some men 10 per cent. a week more than labor unions would say we must pay. *But we, like the ones we hire, are free Americans.*

STATEMENT OF NATHAN DREW

A law, of course, cannot compel the employer to employ, and naturally he will not employ such persons as in his judgment are not worth the minimum rate prescribed. The provision for such persons should be part of any legislative program looking to a general minimum wage, for if the State arbitrarily denies employment to a certain class of its citizens, it must take some steps to take care of them.

At present, the legislative power in the direction of minimum wage laws is limited by certain legal principles, and the power to pass a general minimum wage law would have to be secured by constitutional amendments, both of the State and probably of the Federal Constitution. Personally, I believe that society at large would suffer a greater injury in taking away from the individual the right to work for any wages he might at the particular time be willing to work for, than it would gain through the operation of a minimum wage law. After leaving college, I worked six

months for nothing and for a year and a half after that at $20 a month. This period, of course, was largely a period of practical apprenticeship in my profession, but this period of apprenticeship is just as essential to manual trades as to professions.

All the above is on the practical side of expediency. As a matter of governmental policy, it is my belief that the purpose of government is to afford to the individual, within certain limits, the fullest and freest exercise of individual rights, and to deny the right of individual contract in a matter so important as the selling of personal service, except as that right is now defined by our courts within the clear limits of the demands of health and posterity, is, I believe, an assumption of a function not consistent with the true purpose of government. It is far better, especially in this age and day of large opportunity and the immensely increased production of wealth over that of former times, that the individual be encouraged to perform a service for society which will entitle him to a living under the workings of economic laws rather than to make him a ward of the State, a parasite upon the productive efforts of others, and so paralyze his individual ambition and possible development.

STATEMENT OF E. F. DUBRUIL

In all discussion of the minimum wage, I have never yet found an advocate of a legal minimum wage who seemed to realize that the employer is, after all, an intermediary, taking his pay out of the price that has to be paid for the article by the ultimate consumer.

If restrictions as to wages are such, whether imposed by law, labor unions, or any other forces that the cost of production is so high that the goods cannot be sold to the consumer for a price that will bring in not only the labor cost, but all expenses in addition, and a profit satisfactory to the employer, be he a merchant or manufacturer, then the opportunity for employment at any wage, high or low, is correspondingly restricted.

The narrowing of the market may result in bankruptcy, or the voluntary withdrawal of the employer, but such narrowing of the market is bound to result. I am thoroughly familiar with the

union arguments for a minimum wage, but I have only to point to the fact that the only place where the unions have successfully been able to fight the economic trend of establishing a minimum wage was by the establishment of a labor monopoly in the building industry. The building industry lends itself to the labor monopoly because it is of the nature of a land monopoly. The building must be built in a certain place, and if through political control, intimidation of non-union workers, aided by the comparative financial weakness on the part of the building contractors the labor monopoly is established, the ultimate results are such as San Francisco is now suffering from. While wages were $10 per day for a short time, there is no building going on, because buildings built with such labor cannot pay a satisfactory return on their cost.

Now to my mind, the same thing applies to the minimum wage proposal, whether in department stores, or in any other service. Wherever a minimum has been established, the subnormal workers are promptly eliminated. It is no longer the business of the employer to have any thing to do with them as an employer, although the State may tax him to put them in the alms house, or otherwise support them in absolute idleness. As a citizen, he may sincerely regret that a girl capable of earning $5 per week is not capable of earning $6, but as an employer he is forbidden, by laws that say he must pay $6 per week, from hiring her at all. What becomes of her had better be looked into and be anticipated. The same with the old worker who is no longer able to earn the minimum. She can starve in the attic for all society cares because society through this law has told her she must no longer work at all, that being practically the effect on that class of people.

Then those who are able to earn the minimum soon find that the minimum is also the maximum, and the law designed for the benefit of the subnormal in attempting to compel the employment of the subnormal at a normal wage simply restricts the opportunities of the supernormal of earning normal wages, and as soon as the demand on the part of the supernormal employees for supernormal wages becomes pressing, they are eliminated and replaced with others who are merely normal. What becomes of them is also a question for the advocates of the minimum wage to ponder. They

may shift around from one place to another, but on the whole they will receive only a normal wage, which has also been made the minimum. They will soon learn to not deliver more than normal service, so that there is a leveling down of not only the wage, but also of ambition and progress.

STATEMENT OF DUNN & MCCARTHY

It is our most earnest opinion that the condition of the workman could be very, very materially improved and possibly that of the employer, himself, if such deteriorating influences as saloons, dance halls, gambling devices were either throttled or entirely removed. We believe that you can legislate until you get black in the face, without accomplishing very much real good, so long as one class or body of citizens are allowed to prey upon the weaknesses that unfortunately exist in most of us.

It may be possible that some form of investigating and publishing of actual and specific facts in regard to wages would have, if fairly done, a good influence on the manufacturer in keeping him keenly alert as to his actual wage conditions.

Whether or not the conditions of the workman as a whole would be improved this way, is an open question but the conditions on paper would certainly be better as it would result in the manufacturer eliminating the more inefficient employee with low earning capacity and would tend to make him more careful to keep steadily and constantly employed, especially in piece work industries, a smaller number of people with good earnings rather than a large number, less steadily employed and with less earnings.

The tendency now is, when trade is quiet, for a manufacturer to retain his usual number of employees, with the natural result that the wages of each is quite materially reduced according to the actual condition of business. We doubt if it is good business to handle it this way but one is naturally loath to lay off people that have been with him for some time and furthermore, he has in mind that business will improve quickly and that he may need all the employees that he now has.

To sum the matter up, any legislation will be most welcome that will tend to improve trade conditions or the character and efficiency of the employee and employer, alike. Whether this can best be done by direct or contributory legislation, you will be better able to decide after your investigation.

STATEMENT OF ALEX. EISEMANN

With regard to the minimum wage, I would state that I believe that if a properly enforced minimum wage law was passed, it would be welcomed by a great many manufacturers. However, a law which would be obeyed by the representative manufacturer and disregarded by smaller and less scrupulous business men, would certainly not be approved of by the former. As a means of enforcement, it may be that the publishing of the names of employers who violate the law (as, you are no doubt aware, is being tried in Massachusetts) or a criminal penalty for violation would bring about its enforcement but personally, as an employer, a law passed but not rigidly enforced would only find acquiescence among the larger and more representative employers whom, I understand, it is not so necessary to reach because of the fact that such representative houses are already paying wages higher than what the minimum rate would probably be. A prison penalty for violations would to my mind be the only sure way of enforcement. I do not think a fine or even public denunciation of offenders would be an adequate means of enforcement for such employers who attempt to circumvent the law.

STATEMENT OF A. LINCOLN FILENE

I have your inquiry regarding the minimum wage. Personally, I believe that it is one of the most important subjects before our legislators to-day and I want to answer it at some length from two points of view. First, its bearing upon our personal experience; second, its relation to the question of industrial advance in general.

We recognized its possibilities some years ago, and after careful investigation adopted the principle in our business. Since then

we have watched its effect patiently and I think I may say to-day that the results have been satisfactory. We have found that it has been a large factor in raising the standards of our employees; in making them more contented at their work, and in keeping their efficiency steadily on the upward trend. All these, of course, are good assets for any business.

In the broader question, however — whether or not it is wise to establish a standard minimum wage in diversified industries in a State — I recognize that there lies possibly some room for a difference of opinion. Unquestionably the adoption of such a standard would compel the employer to demand greater efficiency from the individual employee. This would result temporarily in an increased problem of unemployment, to deal with which the State must adopt a well considered program of legislation. Such a program would necessarily include part time schools, vocational education and vocational guidance as a part of the educational system. Where such schools and courses have been introduced they have resulted in a voluntary increase in the number of years of schooling per pupil, and this for two reasons. The pupils themselves can see that their study is directly fitting them for their life work, and their parents recognize that, while the pupil enters industry at a slightly later age, the increased preparation for a specific job means increased compensation, with less frequent changes of employment, and less chance of bringing up in the so-called blind alley employments. From the standpoint of the employer all this means the prevention, not only of inefficiency, but of the enormous economic waste which arises yearly from the continual change of personnel with its ever-recurring training of new men for a given job.

Necessarily, also, there will be brought to the attention of the legislators the problem of the unfit. To deal with this question supplementary legislation of an educational and protective nature must be added to the enlarged educational program I have outlined. In this connection, I should like to see a careful study of the present conditions with a view to finding out if the unfit should or should not be handled as an entirely separate problem and whether their protection and partial or entire support would be better administered by State or by private agencies.

In spite of all these factors, the influence of which on the question has still to be tested, I can imagine a situation in industry where the best efforts of employers and employees may still make it impossible to adjust the wage level except by direct reference to the consumer through an increase in the price that he has been accustomed to pay. Should he refuse to uphold the manufacturer in such a case, either the community must bear the burden of the increased wage and price of a commodity or decide to do without that industry.

But on the whole, I believe that, while when first adopted a compulsory minimum wage may cause some inconvenience to industry and some hardship to the individual worker, the improved standards imposed on both will in the end so benefit both that, after a reasonable trial, neither would be any more in favor of abolishing it than we are to-day in our business.

STATEMENT OF D. M. FREDERIKSEN

Wages depend in the first place on the output, that is, the profitableness of the industry. The laborer gets a share, and the size of his share depends primarily on the profitableness not only of the particular industry that he is engaged in, but on every industry in that community. This is why wages are higher here than in Europe, because on the whole our industries produce more — partly because our natural resources are greater, partly because our efficiency, skill and inventiveness are greater, so that each man produces more, and therefore also gets more.

There are numerous tendencies working to give the laborer the share that is fairly his, and on the whole I believe he gets it, except in certain industries where, by means of foreign labor, gradually the condition of the laborers has become worse, and the remuneration less. This is notoriously true of such industries as the coal mines, the Chicago stockyards, and in general any industry where a large class of low grade foreign labor is employed.

On the other hand there are certain industries where the employers have secured a monopoly, either by means of combination or patented inventions, or a control of necessary, natural re-

sources, and I think it will be found that some of our leading trusts (Standard Oil, glass blowers, etc.) are paying more than ordinary market wages for the reason that they have a cinch on the consumers and are able to do so, and prefer to pay more than average wages rather than have trouble with their workmen and have their business methods exposed.

General wages cannot be raised by governmental action any more than good crops can be secured by governmental action, but in any special instance wages can be raised at the expense of the rest of the community, such as for instance it would be possible to raise the income of the producers of any one kind of crop by a combination or a law which arbitrarily raised the price that was to be paid for that article.

The tendency of such action would be to reduce general or average wages, as the whole community would pay for it, and therefore it can only be employed in exceptional and specific instances, such as possibly women in department stores, or minors, and even in such case it is a question whether it is desirable to interfere, as in many of these cases the low wage that is earned in this country in such employments corresponds to the unpaid labor that is furnished in Europe in similar cases, where frequently a person has to work for years without pay for the purpose of learning the business.

Personally I believe that the legislatures of the various states can establish minimum wages as well as anyone else, and would prefer to have a commission with merely advisory powers in each state, to recommend to the legislature exceptional cases in which minimum wages should be established. I believe such commission should have the fullest power to examine books, administer oaths, etc.; should initiate investigations upon a petition signed by say ten citizens, but I do not believe the commission should have the power to declare a minimum wage, but think this should be done by act of the legislature, as I consider this a remedy that can only be applied to a very limited extent.

The employer will always be able to recoup himself by raising his prices, except in cases where he is competing with outside manufacturers that are not subject to the law. It need in no

way interfere with the right of others obtaining a higher wage than the minimum, but might have the effect of causing the discharge of inefficient and incompetent workers, that might otherwise be employed at less than minimum wage.

I am not personally an employer of labor to any great extent, as I am a colonizer and farmer, but am a student of economic subjects, and therefore know the foregoing to be the true principles of minimum wage legislation.

STATEMENT OF F. X. KUCHLER & SON

Our experience the past twelve years has been with girls and women who are mostly unskilled and the class of goods made does not warrant paying any higher wages than we pay at present on account of the close competition. We find that most of the girls of parents born in this country are very poor workers as compared to girls of foreign-born parents. In fact, we give higher wages to Italians than we do to American girls, as the American girls do not seem to care whether they work or not; also they are very unreliable, etc.

We know that if there is a minimum wage law passed in this State the bulk of a certain class of goods that we make would be discontinued, and these goods would be made in neighboring states where there are no laws to prevent the production of same; in fact it would amount to driving not a few manufacturers out of the State or out of business. We, for one, would stay in the State, but we would produce only certain lines of goods and put out of employment about fifty girls.

We are very much in favor of anything that tends to improve labor conditions, and in fact try to be ahead of the law in a good many instances.

If our neighboring states would pass similar laws we would be on an equal basis, and we could continue the manufacture of our present lines, but would have to raise the cost to the consumer by cutting the size of the pieces of candy to get out the extra costs, as in our business competition is so keen at the present time that it barely pays a man for the hard work and capital invested to bother and worry about keeping a lot of help employed.

STATEMENT OF ADOLPH LEWISOHN

I have yours of October 3rd, asking me to give you my views on the subject of minimum wage legislation. I am not in a position to make a memorandum of any great length on this subject, as I have not studied it in detail though I have given some thought to the general problem. I would therefore only care to state my general views.

My view is that it is a sound policy if confined at the start to certain underpaid industries. It seems to me that, if the minimum is not made too high, it may in those cases be possible to secure wages more adequate to the needs of the workers without reducing the consumption of goods produced by such workers and thus indirectly throwing a large number out of work. Any too radical provisions might prejudice such legislation by causing serious economic readjustments, whereas if done in a conservative way it might work quite some benefits. I understand that experience has shown pretty thoroughly that where minimum wage legislation has been enacted conservatively and with a view to proper economic necessities, it has been quite effective and successful in standardizing wages in the industries covered by such legislation and protecting those wage earners that are unable to bargain collectively.

STATEMENT OF ROBERT LUCE

Let me preface my reply by saying that I am president and chief owner of the Press Clipping Bureau known by my name, employing about one hundred persons, chiefly young women, in offices in New York and Boston. In the course of the twenty-six years of its existence, I have been in contact with the conditions of such employment in those cities, all the time in Boston, twenty-one years in New York — as well as for a few years in Cincinnati, Chicago and Denver. Purely as evidence that I am not unacquainted with the problems involved when looked at from other points of view, I take the liberty of saying that I served nine years in the Massachusetts Legislature, was appointed Chairman of the Massachusetts Commission on the Cost of Living, and as Lieutenant-Governor of the State was for a year a member of

the Governor's council. If the conclusions reached as a result of this somewhat varied experience can be of any help, I shall be glad.

Perhaps 500 young working women have come more or less closely under my observation during this time. I have no reason to believe that five of them were wholly dependent on their wages. We have preferred to employ them fresh from school. Almost invariably their earnings have gone to swell a family income. This is a point that in the discussion of the minimum wage, is often lost from sight. In the case of the great mass of the women wage earners of the country, it is a question of the family and not of the individual. Much of the argument, however, assumes that the individual is the social unit, and not the family.

Our girls rarely stay with us many years. Some time ago I made a somewhat laborious calculation and found that they averaged to stay with us forty-four months. Conditions may have changed since then, but not greatly. I have been told we do better than the telephone company, where the average is said (if I remember right) to be about thirty-three months. The telephone girls have greater opportunity for speedy matrimony. That is not a matter of humor, but of economic fact. My observation is that practically all young women engage in wage-earning effort as a makeshift, with matrimony as the looked-for relief.

This puts young working women, as a class, on an altogether different plane from young working men. Their employer knows that in nine cases out of ten (speaking broadly), he will presently lose all the capital he has invested in training. Every time one of our girls goes out of the door after her resignation, we see go with her, on the average, several hundred dollars of our capital, invested in making her an efficient worker. This of course we must recoup. It is therefore natural, logical, and inevitable that a worker of this class shall receive less pay than one of the class that brings some permanence of employment, namely, men.

My business, while giving me a living, has never paid for any length of time more than the normal return, taking into account the usual conditions as considered, for instance, by appraisers of business estates. If we are to pay higher wages, either profits must fall below the normal, finally resulting in the devoting of

our energies to some other field, or prices must be raised. If we can raise prices without loss of business, the consumer will bear the burden, of course. This may be the just and useful outcome of a minimum wage law. I should be very sorry to be thought opposed to such a result. I should be very glad to see all our girls get more money. If my competitors are, in the various states where competition exists, put under the same conditions, I shall cheerfully take my chances. But the economic possibilities for the girls themselves seem to me of enormous consequence.

Under the competitive system each wage-worker gets, normally, the equivalent of the benefit he or she confers on society by labor. The serious question is this, to my mind: How about the worker who by reason of physical or mental inefficiency is incapable of conferring on society by labor a benefit equal to the minimum wage proposed to be enforced by law? If the community is prepared to make up the difference, by public charity or otherwise, well and good. But will not the cost be tremendous?

STATEMENT OF K. B. MATHES

In our industry (novelties and fancy goods) we employ both males and females, and of various ages and various skill and the matter of a minimum wage scale has received considerable thought. I am convinced legislation along this line would be the worst possible thing and would not be practical. My reasons for forming this opinion are as follows:

In the first place, it is a fact that in every industry you will find employes whose intelligence and skill are below the average. There is a larger proportion of this class of people than the average individual has any idea of, and when times are good these people are almost always employed and are usually paid what they are worth, but to fix a minimum scale would almost eliminate this class of people from employment in the State. I believe this is one question that needs very careful consideration.

It seems to me even if this law were to be enacted that it is a most inopportune time to do it now, or for the next five or ten years. We are just now beginning to realize what the new

tariff law means. I am satisfied it will take five years for us to fully realize the workings of it. I cannot see, judging it from every point, and having listened carefully to what has been said by all of the heads of the manufacturing establishments in Batavia, who are now in an association, how this new tariff law can help but make some very important changes. Something has got to happen, either we must raise our prices or else lower our cost of production. Nine industries out of ten are affected in some way or another, and it is my opinion this is what is the matter with the country today.

The importation of foreign merchandise is increasing. This is due to the fact that they can now be bought abroad cheaper than they can be bought at home, and the reason of this is that the labor abroad does not begin to cost as much as it does here. Now, to come along on top of this and especially on top of the recently enacted Workmen's Compensation Law with a law to fix wages, that is to say, what the minimum must be according to law, would be the "last straw."

As near as I can ascertain from the sentiment of my associates, not one of them is against proper legislation, but it seems to me this State has worked itself up into a legislative frenzy or "frenzied legislation" if you please to call it such. We are going fast and furious, without understanding or comprehending the consequences.

I cannot understand how a law such as is suggested by your letter would be of any possible benefit. In normal times when there is a steady demand for merchandise, this question of labor is absolutely bound to regulate itself, and all of the minimum wage laws would be of no avail when times were bad. Without this law, those who are not competent to earn what would probably be determined as the minimum wage would be employed, and they are just the class of people that should be employed and encouraged, otherwise if they were thrown upon the public at large without employment, crime would increase. I think these are points that are very worthy of consideration.

Another point that certainly should be taken into consideration, is the fact that the average female worker is not dependable. In many of the industries she must be taken into the shop and

schooled for some time, varying of course according to the industry, to allow her to gain knowledge of the business sufficient to be of service, and in my experience covering the last ten years, as a steady employer of female labor, I am convinced that it would never be reasonable or just to pay the female worker as much as the male worker, even though they performed the same labor and are fully as skilled, for the reason that they are not dependable. There are exceptions, and those exceptions are invariably taken care of, but the general rule is, that in five cases out of eight, you will no sooner get one efficient and well skilled than you will politely be given an invitation to a wedding, and then you can begin your work all over again. Now, this is a perfectly natural consequence, and every factory has it to contend with, and how you can consistently make a minimum wage scale to cover such cases is beyond my comprehension.

STATEMENT OF THE NEW YORK STATE RETAIL DRY GOODS ASSOCIATION

Business men are proverbially poor speakers and loath to publicly express their opinions, either by word of mouth or in writing; hence, though not unwilling, we feel a hesitancy to express our opinions at this time. This hesitancy also applies to workers, who, like business men, find little time from out of their busy days to speak or record their thoughts. It will not be strange, therefore, if the publicly expressed opinions should seem to preponderate in favor of standardizing wages by legislation, because most of the opinions so expressed are those of theorists, social workers and professional writers — all public speakers — and are not the thoughts of practical workers, nor those of men conducting businesses.

Establishing a minimum wage by legislation must be regarded as an innovation and experiment in legislation in this and other countries. Its most ardent advocates can hardly point anywhere to its complete success, and where in other countries it is shown to be partially successful, the conditions of employment and liv-

ing vary so from ours as not to constitute a proper nor safe guide for its adoption here.

Recently some have based their arguments for additional wage on the theory that low wages and immorality are closely allied. Deep and careful study for more than two years by leading investigators and publicists has shown the fallacy of such arguments and that they are baseless, and we mention them only not to seem to evade them.

It is not our intention here to dwell on the great probability that minimum wage legislation is unconstitutional, involving as it does the unalienable right of the individual to contract. We believe such laws are unconstitutional — but whether so or not, these questions are now before the courts, including the highest, that is the Supreme Court of the United States, and we can trust to their proper decision. We do, however, recognize the very great difficulty which lies in attempting to standardize so subtle a thing as salesmanship or wage-earning power, and if such a thing were possible, because of the personal elements which enter so largely into the problem, it should not be undertaken by the legislature. To attempt to put a fixed value on an unknown quantity is surely dangerous legislation and will in practice be a constant menace to progress, to personal initiative and to development.

A minimum wage law will in no wise promote additional business. Its effect will be the very opposite. It will limit business and limit employment. We turn our attention for the moment to the minor who has reached the age where some employment can be had, and who is required to be of help toward the family support. The State has given him or her an ordinary education, but even if it has been of a technical nature, her efficiency and capacity to earn a living is very small. We claim that the modern mercantile establishments of the United States have become practically extension schools for such minors; that coming in contact with the public through them is in itself a great opportunity for education; that training is furnished amid helpful and proper surroundings, and with it is given a reasonable consideration; and unless the State provides such places for training, or better places, such opportunities would be lost to thou-

sands needing them; and if the State did attempt to provide such vocational training, it could only be done at tremendous expense. State training could hardly be practical but only a theoretical training at best, because it could not bring its pupils into contact with actual conditions. We claim as practical fathers, it is for the best interests of that minor to be brought into touch immediately with practical training, and the State should not hinder nor embarrass that minor through wage legislation of this sort.

There are many analogous cases to this, of people, for instance, who are not minors. We cite that only of the minor at this time, as we desire to be brief. Facts will show that only a very small percentage of girls or women who receive low wages are without the benefit of family or home support.

We turn again for the moment to the effect on the minds of many of the young in the event of the establishment of a minimum wage by law. We feel that it would carry with it the assumption that there is a definite established wage waiting for anyone who chooses to enter employment, creating on the part of some a desire for freedom from parental or home restraint. Home duties might seem more onerous because of this presumed available opportunity. It is a phase of the question to be viewed with apprehension.

The movement of useful members of rural communities to the cities is constantly going on. Will not the glittering "will o' the wisp" of a standard minimum wage be an added allurement, eventually disillusionizing to thousands? If instead, whether in city or country, this young woman, who is fitted for home work, could remain in the home and not have this attraction, would not the effect upon home-keeping be worth consideration?

We believe a law of this kind will tend to destroy initiative, that it will work against women and in favor of men, and that the State should not put its seal of approval on such discrimination.

We feel that it would retard the progress of the more efficient workers and that the less capable would be carried at the expense of the others. This will surely result. The moderately capable would in many instances suffer curtailment of work,

perhaps unemployment, though at present they receive what benefit there is to be had.

We fear that to establish arguments for minimum wage by legislation, too many times undue stress has been laid on the *lowest* wages paid, and there has not been properly presented records of the efficient and the successful; in fact that in investigations, too often, arguments have been sought to sustain the idea of minimum wage legislation rather than to approach this important matter from an unprejudiced and judicial standpoint.

We do not purpose here to discuss the early days of store-keeping with its long hours and low pay, nor the growth to the improved, modern, mercantile establishments of today. It is sufficient perhaps to quote from a report made to the National Civic Federation in July, 1913, after searching investigation: "Physical conditions in the modern department store conducive to the comfort of the worker, are as favorable as those of any line of trade or industry in this country. There is good reason to believe even that the average is appreciably better, and indeed some of the welfare work is really wonderful." And again: "The average wage paid women employees in New York department stores is appreciably higher than the average of factories, mills, and like industries."

The general saleswoman's work should not be compared with factory or office work. Her work is light, not onerous; it is not constant, as is the work of a factory employee; she is not engaged in actual labor to exceed 40 or 50 per cent. of her working hours; she has during the day many periods of rest from labor; she is allowed hours off each day for shopping; she is allowed time off, without docking, for personal reasons and family obligations, and even at times for social reasons. She is pretty generally these days, given either a summer vacation or weekly half-holidays without loss of pay. Moreover, there enters into this problem, over and above wages paid to each, other elements which are equivalent to an addition to her pay. On all her purchases made in the store (and in the average department store this covers practically all her wearing apparel and personal needs, and in some cases household needs as well), she receives a very considerable discount or reduction from regular prices. Is this

not wages as well? Too, in the average store of reasonable size, there are not less than twenty departments or subdivisions, all calling for managers or buyers, or offering advanced positions, affording opportunities for promotion and incentive to attain it. It will be found that the compensation of these successful workers will average more than that of the medical, or legal, or ministerial profession.

There is another element which enters into employment of women and rate of wages paid. At the outset no new worker returns to her employer anywhere near 100 per cent. of efficiency. There is a training period varying from months to a year or two, involving loss of profit in her work, which may be recouped if her period of service be sufficiently long; but many, indeed most women, look upon work as temporary until they are married, and many workers leave to be married before they have returned value for wages paid. The employer is then under the necessity of again training, at his expense, a new worker. This largely tends to hold down wages for the beginner, and no legislation could overcome it. In this country, the per cent. of women over nineteen years of age, marrying, is 80 per cent.

Every saleswoman in this State is free to better her position at any time. We express it as our firm opinion that the rank and file of women in mercantile establishments do not desire a standard minimum wage law, and would regret the application of such a law to their work.

The rate of wages should not depend upon legislation and it is a wrong theory of economics which argues in favor of such a method. Every business man brought up in the hard school of a working life, knows that the old adage, "There is no royal road to success" is true. Such men will always feel that the burning question is not that of a minimum wage, but that of "getting a job," and having the job, by hustle, energy and ability, earn the promotion, which admittedly may be slower in coming than any of them would like. That man or woman only whose ability and industry is marked, is economically the one to receive the promotion and bettered wage. President Wilson in an address this month (January) said: "Some men are going to get beaten, because they have not the brains, they have not the efficiency, they have not the

skill, they have not the knowledge, they have not the capacity that other men have. They will have to be employed, they will have to be used where they can be used. We do not need to conceal from ourselves that there are varieties of capacity in the world."

We feel that establishing a standard or minimum wage by law is fallacious law-making. No one to-day regrets the failure of the greenback theory, "which sought by plausible argument to prove that manufacturing paper money would be a suitable undertaking for the Government," nor does any one any the less regret the failure to commit our Government to free coinage of silver, "thus producing plenty of silver money." Every one now recognizes the disturbance to business and the economical disorder that would have ensued had these fiats been introduced and become the law of the land. Both these movements had sincere believers and advocates, but safe, conservative business men were then against such fallacies as they are now against what they believe to be uneconomic and unsound legislation; to wit: the proposed establishment of a minimum wage by legislative enactment.

From the standpoint of a taxpayer such legislation would be a very serious matter. Let us suppose that the minimum wage had become a law. Naturally the attitude of employers would be to insist that every person who was paid the minimum wage should be sufficiently efficient to earn it. This would force upon the State, and employers would insist upon it, the necessity for special vocational training for each kind of work for which employment was given. This would call for a complete rearrangement of the Educational Department of the State, for additional vast sums of money to establish such schools, and beyond that would call for a very large appropriation for enforcing the law and supervising the working of it, thus adding burdens to the already over-burdened taxpayers. Our State and National Governments are now facing serious deficits. Many people feel that these deficits are largely caused through experiments in law undertaken in State and nation, affecting economic conditions, and which have not demonstrated their usefulness.

The basis of legislation should be justice after *all* facts are known. Wages are not the only factor to be concerned with in determining justice and the scientific spirit should be shown not

only in inquiries as to wages, but also as to the kind of service rendered, and whether adequate or any service is being given. Reasoning to the logical end, a minimum wage based simply on needs is unscientific. It says six, eight or twelve dollars a week shall be paid no matter what service is rendered, or indeed if any, so long as the person to be paid wages is an employee. If a person is not an employee, but is out of employment, there would appear to be no obligation on the part of any one to see that he has a living wage. The mere giving of employment carries with it an obligation to pay six, eight or nine dollars, whatever it may be, regardless of the quality or kind of work done. If because one is an employer and obligated to support someone at a given rate, on whom does the obligation rest to support the unemployed? We do not think it just to say that an employer is under obligation to pay anybody anything when there is not a corresponding obligation to return in earning power the full sum paid. Obligation for the payment of the difference between earning power and wages paid belongs somewhere else. It is not an obligation upon the employer because he *is an employer,* but a moral obligation or a public obligation to be shared alike by employer, consumer, non-employer, the family, society, or the State. It is a moral obligation to be borne share and share alike by everybody, and not to be shouldered upon the employer alone. If such difference must be borne somewhere, and if a person cannot earn a living wage, why not go the whole way and put the difference between what she can earn and what she needs, upon the State, imposing a tax, or by some other method, but we do not think that anyone would feel like subsidizing either an employee or employer that way. It surely cannot be just reasoning to put that burden on the employer alone, nor an answer to say that he can recoup himself, if forced to shoulder a burden not his, by raising prices, because the fixing of prices is not in his hands.

No one is under obligation to employ a slothful, incompetent or inefficient person; no one is under obligation having hired such, to keep them despite any legislation, and no one is under moral obligation, even though through pity or charity they do employ such, to pay them more than they can earn, *simply because they are employers.* The obligation is purely a charitable or moral

obligation incumbent upon us all alike, not as employers, but simply as people kindly or charitably inclined. If an employer does pay to an inefficient worker more than is earned, it is kindness or charity, pure and simple, and we can not legislate charity into each other and do it justly, any more than we can legislate efficiency into a worker.

The minimum wage plan is based on the theory that the person employed by a private business concern should be paid wages on needs, rather than on the quality or kind of service rendered or work done. The first purpose of a business concern must necessarily be to make that business profitable, and that must be done, even though its heads may be largely dominated by a desire to do charitable and kindly acts. Without that the business could not continue and there would then be no chance to give employment to anybody. It follows then that every employee must be a profit maker in some form, for no business could exist unless its employees earned for it a per cent more than they were paid in wages. Economically then that principle of wage payment which requires wages to be paid on any other theory than value returned is wrong.

We do not argue in behalf of excessive profits and we disapprove of bad methods that in isolated cases may exist. We do not argue against the doing of kind acts, because the majority of business men constantly are doing such acts, but only present this argument to establish the above sound economic principle of wage payment.

Abuse of power in business is bad; everybody knows that. Fortunately that kind of business administration is in the small minority. No group of more honorable business men exists in the world than those conducting business affairs in the United States; but it almost seems that the desire of investigators to correct economic evils causes them to lose sight of fundamentals, and to suggest business reforms that can only be carried into execution after business itself has been conducted along far different lines and with a greater profit possibility than that which now obtains.

We present it as our firm opinion that the proposed minimum wage legislation is unscientific, uneconomical, unnecessary and unwise; that it is not sought for by the public, nor even by a considerable minority of workers — surely not by efficient workers,

and that it is calculated to work harm to all workers. We desire to put ourselves on record as against the raising of questions which are in a doubtful province of legislation and which result in agitation and disturbances, for unless there is something inherently wrong in the conduct of business — and there is not — there is danger in fomenting against the spirit of distrust.

The views here expressed may be regarded as those of the Retail Dry Goods Merchants of the State of New York, excluding New York City, which has a separate organization. We respectfully submit for serious consideration the foregoing observations, which are the result of an honest effort to study what may or may not be gained by establishing a standard wage through legislation. We have sought to do this from the broadest outlook, having in mind the real welfare of those who are associated with us in business, and for whom we have — indeed no one more so than we — a vital interest and deep concern.

STATEMENT OF F. COLBURN PINKHAM

The pressure of business has prevented my writing at this time anything regarding the attitude of this association on the minimum wage. All that has ever been officially said came out in my "Annual Report and Recommendations" about a year ago. What I said, I think properly expresses the attitude of most of our members, though some of them, a small minority, are in favor of a minimum wage. I quote from the "Annual Report and Recommendations" of last year:

"There is an increasing agitation for minimum wage and shorter hours legislation. Those who are in close touch with the retail business must realize that such legislation is but a temporary expedient. The employer who is showing no genuine interest in trying to shorten hours and increase wages is greatly in the minority. To attack all merchants for the faults of these is foolish and even to pass drastic legislation against the indifferent employer may not prove the better part of wisdom. The only way to bring about reform is by education. Experience in other industries and in the department store business itself can be

brought to prove to the unenlightened employer that it is to his advantage to pay the best wage possible. If he is paying all that his business can stand, reformers must assist him to make his employes more efficient in order that increased profits may result in increased wages. Coercive legislation may appease the public wrath, but it cannot provide the wisdom to cure the ignorance which is the foundation of poor wages and oppressive hours, where they still exist.

"A careful investigation has revealed the real truth which is that nine out of ten department store executives are seeking the way to make the economic adjustment which will enable them to help their employees. Many of them have gone to the expense and labor of installing schools where their employees can be taught the rudiments of English, mathematics and salesmanship. This work properly belongs to the public schools of the city and state."

I hope that this meets the requirements of the case. There seems to be an honest difference of opinion on the entire minimum wage question and it is only by studying the problem in the states where such legislation has already been tried that we can come to an honest conviction. I am sure that the members of this Association are prepared to be convinced either way. All that we want are the facts. If the law does all that it is claimed for it, then it is a good thing. Personally I am in doubt as to whether the minimum wage laws already passed have worked out practically.

STATEMENT OF H. F. SEARLES

This association represents about forty manufacturers located in the cities of Cohoes and Waterford, employing more than three thousand operatives — the industries are widely diversified, although the majority of the operatives are engaged in the manufacture of textiles, including cotton cloth, knit goods and cotton bats. We also have a considerable number of operatives engaged in metal trades.

It is impossible to apply the same arguments or principles in considering the wage problem in these different industries. We

believe that in competitive manufacturing industries the majority of manufacturers pay as large wages as the conditions of competition and manufacture will permit on the general principle that there is, and has been for a long time, competition in the wage market as well as in the manufactured product and only by paying as high wages as the manufacturer can afford and continue his business can he secure a satisfactory grade of operatives.

We would suggest an important factor which affects the individual worker (particularly as a rule those earning the smaller wages) not only as to the rate of wages which he or she receives, but the actual money received in the wage envelope at the end of the week and that is, *the irregularity of the operative at his or her work.*

It is the experience, we believe, of the majority of the manufacturers, in at least textile trades, that a considerable percentage of the operatives do not work steadily or continuously, although the opportunity for work is steady and the demand for workers is in excess of the supply. This problem is a serious one to the manufacturer and results in an increased cost in the manufactured product and a consequent effect on the general average of wages which can be paid. We believe it to be a psychological fact that with a certain percentage of workers the higher wage per diem they receive the greater amount of time is spent away from work.

Ultimately, increased rate of wages to the operative is paid for by the consumer, but until this increased wage is secured by normal and equitable conditions which affect *all* of the manufacturers in competition with each other in any line of product, it is impossible for the manufacturers of any one section or district to operate under conditions materially more exacting than those of their competitors without adversely affecting the business prosperity of such district and in turn re-acting on the operatives themselves in loss of opportunity to work at any price.

The labor cost entering into manufactured products is such a large proportion of the total cost in most cases that arbitrary regulation of the labor wage in any district or State, which is materially out of proportion with the average wage in competing

territories, we believe to be a very grave question and one that should be handled conservatively.

Our conclusion, therefore, is that in considering the establishment of a minimum wage which, in general, we believe, has its merits, the manufacturing industries of the State in the light of the conditions outlined above, should be reached only through *general* legislation which would affect the industries at large, instead of within the confines of any one State or district.

STATEMENT OF PERCY S. STRAUS

In complying with your request I must preface my remarks by saying that I find myself in an embarrassing position. I am opposed to the entire theory of regulating wages by law for reasons that I will state hereafter. As an employer of a large number of women, however, my motives in objecting to such legislation might be misunderstood. For that reason I would not have given formal expression to my views, had your request not been put in such form as to make responding to it a civic duty.

To establish a minimum wage without at the same time defining the amount of work for which it is payable, is placing a premium on the shirker or rewarding the inefficient. Such an effect is obvious to anyone who has been in a position to observe the varying accomplishments of different people under identical opportunities. This weakness in a minimum wage by law might be overcome if the State could so far increase its paternal supervision as to establish a varying minimum dependent on both return and length of service; thus giving to the beginner a wage which might not be adequate for complete independence and advancing it as experience and accomplishment increased. There are many objections that could be raised to this method, but it would at any rate tend to obviate the need of society paying, through necessarily increased prices, the cost of comfort for the inefficient or the unwilling worker. Unless some such method of controlling the payment of an unearned wage could be contrived there can be no doubt that cost would increase and we would but be started again on a chase around a vicious circle.

Obviously there are varying conditions which, if due consideration could be given to them as under the Massachusetts law, would require the establishing of different minimum wages in different industries, and even a number of minimums in the same industry. But even under that method the two forces, one the interest of the industry, the other the clamoring social needs of the worker, would result in an increase in wage, which if it did not carry with it a specified additional output, would necessarily increase the cost.

If we are to adopt the principle that every worker is entitled to a wage which would enable her to maintain a definite standard of living, irrespective of actual earning power (and that is the theory of all minimum wage legislation), we should do so realizing that we must be prepared to continually increase that minimum as fast as price to the consumer has risen to meet the increased cost of manufacture and distribution.

From the point of view of economic theory there are four elements to the cost of production: Rent, interest, wages and profits. In any particular enterprise the first two must be established at the outset, the one by treaty, the other by market rates. Wages must next be established before the enterprise can be fairly started. Profits, or the return to the merchant, as distinct from the supplier of capital, must be the result of varying conditions, being larger one season and less the next. The proper ratio between wages and profits has been the question that has agitated economists for generations. It has led to the rise of trade unions and of trusts, and has been the cause of endless industrial conflict. If a minimum wage by law would tend to overcome this strife it would without doubt be a social gain.

No one, however, can foreshadow the actual result of such legislation. Would it be, as I stated, to add an additional burden to the heavy ones already borne by the consumer, or would it be a help to the solution of the problem of distribution? If the law could be enacted experimentally we should be justified in this State in taking the risk of finding out what the result would be, but this is obviously impossible. Would it not be the path of wisdom and ultimate advantage for New York to adopt the watchful waiting policy? California, Oregon, Washington and Massachusetts have minimum wage laws. Let us of this State watch their workings and then profit by their experience.

STATEMENT OF HENRY R. TOWNE

I duly received your letter of 3rd inst., in which you ask my views concerning the advisability of enacting minimum wage legislation.

The subject is a large one, and the arguments for and against the proposition cannot briefly be summarized, but I submit the following comments:

Our works at Stamford give employment, under normal conditions to upwards of 4,000 people, and I am deeply interested in all efforts, legislative or otherwise, to benefit the workers of all classes. I recognize that in many cases the wages paid to women and minors are insufficient to enable them to maintain themselves properly, but I doubt greatly whether the evil thus implied can be much benefited by direct legislation. The condition involved is economic, not political, and in most directions legislation has little effect on economic tendencies and conditions. In the present case it is obvious that some kind of regulation is desirable, but it is by no means obvious what kind of regulation is possible or expedient. The fixing of a minimum wage would benefit those now receiving a smaller wage and who thereafter continued to find employment, but it would greatly injure many others by its inevitable tendency to throw the inefficient out of employment because of their inability to render services for which the employer could afford to pay the minimum wage.

It may fairly be argued also that in the long run the fixing of a minimum wage, if such wage is higher than the present prevailing rate, would imply an increase in the cost of production, and that this in turn would imply an ultimate increase in the cost of living. If so, the latter, to such extent as it obtained, would nullify the benefit intended by the fixing of the minimum wage.

On general principles I believe that artificial interference with economic conditions is undesirable *per se,* and in many cases fails of its object. On the other hand, I believe that great benefits have been accomplished and that many more are still possible from wise legislation designed to safeguard the rights, health and interests of wage earners of all classes, and that one of the most promising methods of aiding the working classes, especially the unskilled, is to foster and promote the development of the trade and vocational schools, whereby in the future the number of skilled

workers will greatly be increased and the ranks of the unskilled proportionately be reduced. When this reduction of the unskilled has progressed sufficiently it will operate automatically to enhance the wage rate by reducing the number of unskilled, and thus establishing a better equilibrium than at present between supply and demand.

STATEMENT OF G. VINTSCHGER, SR.

I am strongly inclined to think that wages of the working classes will be regulated by laws of supply and demand, and cannot be regulated by legislation. This applies more strongly so to countries, which are entering the field of world's trade, and this country is approaching that condition most rapidly. It is now depending very largely on its growing foreign trade, and I believe without it, it would soon find its producing capacity to strongly exceed its home consumption.

Under such conditions it follows, that a regulation of wages by a legislature would do more harm than good, because it might fix wage-rates which would burden the cost of production and handicap our factories too strongly in competing with the world's markets.

The ideal of our philanthropic legislators might prove to be a great obstacle for broadening out our industries in a general way, and a fixed rate of wages might do more harm than good to those who should be benefited.

Put our industrial establishments in position to compete with the world industries; let us look after a world's market; make all nations our customers, and get enough work for our factories to keep them running full time and over, and wages of our working-classes will improve by the natural law of supply and demand.

This is my candid opinion, and I submit it to you for what it is worth.

STATEMENT OF F. E. WHEELER

Let me say in the beginning that I do not think that a minimum wage rate would affect our company, as the lowest wage rate we pay is higher than any minimum rate that would be likely to be suggested.

Looking at the matter as a general proposition, however, my judgment would be strongly opposed to any minimum wage rate because I believe it would work a great hardship on a good many persons who most need work. In the first place my observation has been that a minimum rate retards a bright, ambitious man while a slow or lazy, stupid man soon becomes slower, more lazy and more stupid. Again it would throw out of work, unless the minimum were made very low, men and women who are not strong, as well as old men and old women, and probably a good many boys and girls who need the pay to help support families, and who if thrown out of work, would not attend schools, but who would probably be learning bad habits during their time of enforced idleness, a condition which would be bad for them and bad for the State.

The laws in New York State now are so onerous that they are retarding the growth of manufacturing in the State. I would not go as far as some and say that the present laws will drive manufacturers out of New York State who are now located in the State; but I do firmly believe that manufacturers who are looking for a location, would even now choose any other State in the Union in preference to New York.

If the labor laws could be made uniform in all of the states it would not matter as much, at least to those of us who confine our sales to this country, but to single out one State and put in force the laws that have already been passed, together with those now in contemplation, concerning the hours of labor, the ages of those who labor, the compensation bill and many others, is making it a very hard proposition for those who manufacture in this State to compete with those who manufacture in other states where the laws are less drastic, to say nothing of competing with the increase of importation of goods made in other countries where wages and conditions are very dissimilar to those existing in the United States.

I am one of those who believe that manufacturing should be encouraged and not discouraged, and I feel that the present trend of labor legislation is surely going to react in a very serious manner upon those whom it is designed to most help.

VI. COMMISSIONS

GREAT BRITAIN

STATEMENT OF G. S. BARNES

With reference to your letter on the subject of legislation for a minimum wage, I am directed by the Board of Trade to say that, as the Trade Boards Act has only been in operation for a comparatively short period, they consider that it is as yet too early to express a definite judgment on its indirect and ultimate results.

The Board are of opinion, however, that provisional replies, based on the experience so far obtained of the working of the Act, may be given to the question contained in your letter, as follows:

(1) The Board are not aware of any general tendency among employers to reduce rates to the minimum allowed by law in cases where higher rates have been paid in the past. On the contrary, there is reason to suppose that the better organization of the workers, which has been observed to have taken place in the trades to which the Act has been applied, tends to prevent the legal minimum rate from becoming in fact the maximum.

(2) So far as the Board are aware, there has been no general dismissal of workers as a result of the fixing of minimum rates; and even where workers have been dismissed on this account, it has frequently been found that this has been due to misunderstanding of the Act and not to its actual provisions.

(3) The Board are not aware of any tendency on the part of manufacturers to transfer their businesses to foreign countries, or, in cases where lower minimum rates have been fixed for Ireland than for Great Britain, to transfer their businesses from Great Britain to Ireland.

(4) There is no evidence in the possession of the Board to show that the efficiency of workers has been reduced as a result of the fixing of minimum rates of wages. On the contrary, there are indications that in many cases the efficiency of the workers has been increased. The fixing of minimum rates has also resulted in better organization among the employers and in improvements in the equipment and organization of their factories.

CALIFORNIA

STATEMENT OF KATHERINE PHILIPS EDSON

I am sorry to say that the California Industrial Welfare Commission has not completed its work sufficiently so that our minimum wage legislation has had any practical test. However, certain tendencies have been observed as the result of the investigation which I fancy is somewhat different from yours as we have a law that gives us power to not only investigate but to determine and fix wages in any industry in which women and children are employed.

The result of our investigation plus the fact that we have power has tended throughout industries of the State to raise the wages, many employers being most anxious to come up to the standard that they believe will be set by the Commission. This is particularly true of the dry goods industry of the State and if it would be of interest to you I would be glad to send you the comparative wages paid in Los Angeles and San Francisco in 1912 and in 1914. Also there has been a great change in the wages paid in the laundry industry.

We are in a quandary as to how to choose the wage boards from an unorganized industry. The only industries that we have in California which are organized are the garment trades and the laundry industry of San Francisco and around the bay. The garment trades have fought minimum wage legislation very bitterly and have succeeded in getting the State Federation of Labor to pass a resolution opposing a constitutional amendment that was submitted to the people to constitutionalize such legislation in this State. This amendment has been carried by a safe majority.

STATEMENT OF WALTER G. MATHEWSON

The work of our Commission has thus far been confined to the investigation of the wages paid, the hours and conditions of labor and employment in the various occupations, trades and industries in which women and minors are employed and as to the cost of living.

Our next step will be the holding of public hearings and the selection of Wage Boards as provided by the law.

You will see from the above that we are in no position to speak with knowledge as to facts on the subject except to say that the passage of the law and our investigations into conditions has already had the effect of raising wages in many of the retail stores. A question of the constitutionality of a delegation of legislative powers to our Commission has just been cleared up by a constitutional amendment. This will have still greater weight with the balance in our favor and I believe will have the effect of causing a closer co-operation on the part of all concerned and the Industrial Welfare Commission. Heretofore organized labor refused to co-operate, as did a certain number of the employers. Speaking personally, I look forward for much good from the law.

MASSACHUSETTS

STATEMENT OF ROBERT G. VALENTINE

In reply to your letter of October 30, I am prompted to discuss very briefly, for whatever practical value may lie in its bearing on minimum wage board procedure, some of the considerations, the fair limitations, and compromises involved in the determination of a minimum wage for the employees of a particular industry, in the first practical application of the Massachusetts Minimum Wage Law.

The Massachusetts Minimum Wage Commission, appointed July 1, 1913, during the first six months following its organization, completed an investigation into the wages of women in the brush and corset factories of the Commonwealth. In December, 1913, a wage board was established for the brush making industry. An investigation had shown that brush making is a relatively small industry, employing less than two thousand persons in Massachusetts; that the manufacturing processes are largely manual, machines being used only to a limited extent; that the industry is not growing; that it is peculiarly affected by competition; and that it offers serious problems because of its seasonal character. It was shown that most of the employees are women earning less than $6 a week.

In attempting to fix for the brush industry a minimum wage that would "secure to the worker from the industry a living wage at the lowest level of decent living, and to set that minimum wage in a manner to secure to the industry a sure return in work for wages paid in" the Wage Board enunciated the principle that a minimum wage could be so framed as to create a strong tendency to increase the efficiency of business management; increase the efficiency of the workers; eliminate irregularity and reduce part time employment; prevent the immediate elimination of any considerable number of employees now engaged in the industry; promote better organization and better feeling between the employer and employed; prevent industrial disputes; and in no manner injure the industry. To achieve this object the board attempted to devise means to exert pressure upon the industry to conserve its material resources, to stimulate higher production, by intelligent planning, by supplying adequate machinery, and by educating employees to higher production standards. It was believed that such pressure could be applied by holding strictly to a time rate as the basis for all wage payments, regardless of the performance of the worker.

It was agreed that the minimum established for the industry should at first be relatively low, and reach its proper level through a series of advances according to the ability of the industry to adjust itself to the new condition. It was held that this gradual adjustment should permit the employer to analyze the cost of low production, to improve his own organization, to determine the capacity of individual workers, stimulate the workers, and give sub-standard workers a fair opportunity to reach the minimum standard to be required. The establishment of a minimum wage necessarily imposes upon an industry the necessity of eliminating the hopelessly sub-standard. Under a fixed labor cost the employer must require a fixed performance. It will be to his interest to raise the workers already employed to the standard set by the task, through co-operative use with the employee of all the factors that make for industrial efficiency. It will clearly not be to his interest to retain the sub-standard unless special inducement is held out to him. In this case the wage board held that permits should be granted, within the discretion of the Minimum Wage Com-

mission, to those workers unable to meet the new requirements, and that as to their retention in the industry, judgment should be left to the employer.

Herein lies also a stimulus toward increased efficiency of the worker. A minimum wage imposed through a series of gradual advances, will enable the management gradually to organize a stable labor force, which is the first requirement under improved management. In organizing this force the employer chooses the best workers obtainable for the wage paid. Other things being equal, those with experience will be preferred to those without experience, and those at present employed will be given every opportunity to improve. Employees will know that the employer can and will discharge low performance, high cost workers who fail to improve, and they will recognize that their responsibility is fixed, and they will fulfill it except where fulfillment is impossible.

If the wage board is correct in its premise that a minimum wage will gradually increase efficiency in business management, and increase the efficiency of the worker, it follows that the first costly evil to be corrected, so far as correction lies within the power of the manufacturer, is irregularity of production and employment. This will be necessary not only from the standpoint of economy, but will be necessary through the inability of the industry to absorb, for a few weeks in rush seasons, a force competent to turn out the required work, largely because of higher efficiency required, and even more because the industry will no longer be half supporting a group of wage earners ready to engage, at any moment, for short periods of time. The tendency would be to put wage earners on full wage or none. The employer paying wages for time occupied, will see that that time is used to the highest advantage. He will try to prevent delays in the flow of business from week to week, and from month to month, and will reduce the fluctuation in his labor force, discharging the "irregulars" either seasonal or voluntary. The beneficent effect upon the employee of dicharge under these conditions was not lost to the board, which concluded that "It would be a good thing for the workers so laid off in the long run. They will look for employment elsewhere, and that would be better than to be dangled along, half employed and half living, and so, too inert to venture any-

thing, buoyed up by hope of full time soon — a hope that often cannot be realized." However, it was assured that discharge would not suddenly affect any large number of employees, and under conditions not too rigorous, each employee would be given a fair trial before being cast aside. No less important than these considerations of the board was the possible attainment through business organization and through the improvement of the living standards of the workers, of a better understanding between employer and employee. The continuation of the partial supervision of the Minimum Wage Commission over wage conditions in the industry, will not only serve to bring employer and employee more closely together, but will also provide a medium for open discussion, and a remedy of those conditions which frequently give rise to serious industrial disputes. To use the words of the board, the plan of gradual wage advancements "creates, if given time to produce this proper effect, its own source of wage payment, partly by the improvement of the workers on their side when better paid, and partly by the improvement of methods on the side of the employer himelf." This policy constitutes a denial of the social advantage of acting upon the economic theory that all parasitic industry should be left to perish. The principle expresses hope that wise readjustment will gradually change the economic status of such industries, and enable them to survive as real contributors to the national dividend.

In fixing upon an hourly time rate, the board was not forgetful of its obligation to provide for the employee not only a living wage, but also a sufficient period of work expectation to insure economical planning for the future. No worker can arrange his life satisfactorily without assurance of work and wages for a week. What value to the worker can obtain in a minimum wage finding which recites only a minimum hourly rate? Should not the employee be guaranteed a weekly minimum wage? In answering this question, the board was compelled to consider the condition of the industry, and to adjust the requirements to the ability of the industry to meet them. A minimum wage on a weekly basis is possible only in industry efficiently managed, which is prepared to offer regular employment throughout the year. Few industries in America are so efficiently managed. In American factories an hourly rate has been for many years, and is now, the standard

time basis for wage payment. No wide departure from this standard can be made until industry has been given an opportunity to consider its effect and made the necessary readjustment. It was agreed that the brush making industry would be peculiarly unable to survive under a weekly minimum wage. Small in size and yearly growing smaller, unable to raise itself above the level fixed by competitive conditions, subject to long seasons of irregularity, it has wisely, or unwisely, attempted to survive with low efficiency and a low payroll. Without means for the immediate remedy of these conditions, this industry could not be expected to adjust itself to any additional burden. For these reasons, the board advised the establishment of such an hourly rate as the industry could safely pay at once, though that wage should temporarily remain below the level ultimately desired. That hourly rate was fixed at fifteen and one-half cents, to be increased to eighteen cents at the end of the year, unless it could be shown that the second rate was excessive. The second rate would provide, in the aggregate, for a full week's employment, a wage determined by the wage board to be sufficient to insure decent living. The rate immediately imposed would do less than that. That the compromise was wise cannot be doubted. The brush industry is rapidly adjusting itself to its new obligation, and though it is too early to speak safely of results, it is evident that the investigation of the industry, and the establishment of a minimum has had a wholesome and uplifting effect. The brush makers have entered into the work of the organization in a commendable spirit, and it is in no small degree due to their cooperation that the first step has been safely taken in improving the condition of the workers.

MINNESOTA.

STATEMENT OF WILLIAM F. HOUK.

Our wage orders were made October 23 and do not become effective till November 23, and therefore I am unable to enumerate at this time the difficulties we will have to overcome in administering the act.

There will be difficulties, and many of them, I believe, and if it is possible for me to present them in time for you to make use of them I shall endeavor to do so, although it will not be possible for me to know of many of the difficulties before the fifth of December.

I am enclosing herewith orders Nos. 1 and 4. You will note that these orders affect women and minors of ordinary ability only. The commission did not fix a wage for learners and apprentices because our law provides that they shall receive a living wage. We believe the next legislature should so amend the law that a wage less than a living wage can be fixed for apprentices and learners.

One difficulty the commission will encounter in enforcing the orders affecting women and minors of ordinary ability is in determining which women possess ordinary ability and which do not. The commission not only has not fixed a wage for apprentices but has left the question of determining the length of apprenticeship until such time as the legislature amends the law.

The commission and state auditor have been summoned to appear in court November 14 and show cause why an injunction should not issue restraining them from expending any further money out of the public treasury in payment of anything done under the act. It is possible that this action will result in delaying the enforcement of the law.

The plaintiffs allege that the law is unconstitutional upon the following grounds:

> "1. The fixing of prices of labor or any other commodity on the market for sale, is not within the constitutional power of the state.
>
> "2. Said act is an unlawful delegation of legislative power to the Minimum Wage Commission, and is void for uncertainty.
>
> "3. Said act is unconstitutional in classing together, in the industrial employments, learners and experienced workers, and requiring the same minimum wage for both.
>
> "4. While said act directly affects every employer of women and minors in the State by giving the Minimum Wage Commission power to arbitrarily fix such minimum

wages, it fails to provide for notice to the employers, or any of them, so affected, and does not afford them an opportunity to be heard upon the question of such minimum wages, and fails to provide any means whereby such employer can have the question of the reasonableness of the wage he is required to pay reviewed or considered by any court or tribunal having the constitutional power to decide questions of fact, and thus fails to afford to such employers due process of law, as required by the State Constitution and by the 14th Amendment of the Federal Constitution.

"5. That said act is unconstitutional under both the State and Federal Constitution because it impairs the right of the employer and the employee to contract on the subject of wages.

"6. Said act makes an unconstitutional classification when it puts all adult women, and all minors, whether male or female, without regard to age, in one class, and requires the fixing of the same minimum wage for all.

"7. Said act is unconstitutional in that it unlawfully takes the private property of the class of employers referred to, for the private use of the employees who are intended to be the beneficiaries of the act, without compensation.

"8. By singling out the employers of women and minors for this arbitrary treatment, the act deprives such employers of the equal protection of the law."

We are awaiting the decision of the United States Supreme Court on the Oregon minimum wage law, which is expected within a few weeks. I am of the opinion that action taken by the employers is for the purpose of delaying matters in this state until the Oregon decision is rendered.

Orders Issued by the Minimum Wage Commission of the State of Minnesota

October 23, 1914, Effective, November 23, 1914.

Order No. 1.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability

in any mercantile, office, waitress or hairdressing occupation, in any city of the first class in the State of Minnesota, at a weekly wate rate of less than nine dollars ($9.00).

Order No. 2.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability in any mercantile, office, waitress or hairdressing occupation, in any city of the second, third and fourth class in the State of Minnesota, at a weekly wage rate of less than eight dollars and fifty cents ($8.50).

Order No. 3.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability in any mercantile, office, waitress or hairdressing occupation, in the State of Minnesota, outside of cities of the first, second, third and fourth classes at a weekly wage rate of less than eight dollars ($8.00).

Odred No. 4.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability in any manufacturing, mechanical, telephone, telegraph, laundry, dyeing, dry cleaning, lunch room, restaurant or hotel occupation, in any city of the first class in the State of Minnesota, at a weekly wage rate of less than eight dollars and seventy-five cents ($8.75).

Order No. 5.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability in any manufacturing, mechanical, telephone, telegraph, laundry, dyeing, dry cleaning, lunch room, restaurant or hotel occupation, in any city of the second, third and fourth class in the State of Minnesota, at a weekly wage rate of less than eight dollars and twenty-five cents ($8.25).

Order No. 6.

No employer, whether an individual, a partnership or a corporation, shall employ any woman or minor of ordinary ability in any manufacturing, mechanical, telephone, telegraph, laundry, dyeing, dry cleaning, lunch room, restaurant or hotel occupation, in the State of Minnesota, outside of cities of the first, second, third and fourth classes, at a weekly wage rate of less than eight dollars ($8.00).

These orders do not apply to learners and apprentices.

OREGON

STATEMENT OF EDWIN V. O'HARA

The Oregon measure was passed by the legislature two years ago. The Commission was appointed and began its work early in June, 1913. Following the procedure outlined by the law, the Commission called separate conferences to recommend minimum wages in the mercantile and manufacturing establishments, for office help in Portland, and for all establishments throughout the State, outside of Portland. In the course of three or four months the conferences reported their recommendations, which were accepted by the Commission, and by December, 1913, orders had been issued fixing minimum wages for women workers in most occupations in Oregon. These orders have been in effect practically a year; and while it is premature to give a final statement as to the working of the law, there are certain facts which are well established. They are as follows:

1. Apart from certain manufacturing establishments there has meen no serious objection to the law on the part of employers. On the contrary there has been a general expression of satisfaction.

2. The law has resulted in a notable increase of wages for girls employed in mercantile and manufacturing establishments.

3. The practical difficulty in the working of the law is almost completely centered in the question of the length of apprentice-

ship and the establishment of a rising scale of wages in that period. This question of a period for beginners before the legal wage goes into effect is the one which requires most careful study and consideration from the Commission, in order that the interests of both the employers and employes be safeguarded from unwise rulings.

4. Apart from the question of learners and apprentices already referred to, there does not seem to be any reason why the administration of the law should present any particular difficulty, provided that the fullest publicity be given to all details of the rulings.

In conclusion, therefore, I would say, that the legislation is so strongly supported by public opinion and is so essentially reasonable in its method of operation that the general policy of the law is accepted by employers, and its provisions obeyed without difficulty; but that certain employers try to evade its force by unfair dealings with their learners and apprentices. This, however, concerns but a small percentage of the women affected by the general provisions of the law, and even this loophole for evasion can be done away with largely, if not altogether, by careful study of the conditions of apprenticeship in each occupation, and detailed rulings by the Commission regarding the same.

WASHINGTON

STATEMENT OF EDWARD W. OLSON

During the 1913 session of the Legislature a law was enacted establishing an Industrial Welfare Commission for women and minors and providing for the fixing of minimum wages and standard conditions of labor for such minors and female wage earners in the different industrial occupations in the State. The following preamble to the law clearly epitomizes its basic principle and purpose:

> "The welfare of the State of Washington demands that women and minors be protected from conditions of labor which have a pernicious effect on their health and morals.

> The State of Washington, therefore, exercising herein its police and sovereign power, declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect," and (Sec. 3) " There is hereby created a commission to be known as the Industrial Welfare Commission for the State of Washington, to establish such standards of wages and conditions of labor for women and minors employed within the State of Washington, as shall be held hereunder to be reasonable and not detrimental to health and morals, and which shall be sufficient for the decent maintenance of women."

The law became effective June 12, 1913, and pursuant to its provisions a Commission consisting of four members in addition to the State Commissioner of Labor, who by statute was made an ex-officio member, was appointed by the Governor. The members so appointed serve without compensation. Any person having been a member of an employers' association or a labor union during the preceding five years is disqualified from serving on the Commission.

Immediately upon taking office the Commission began an investigation into the conditions of labor and wages paid to women and minors in three of the leading industries of the State, namely: mercantile, manufacturing, and laundry.

An examination into the cost of living of women wage earners employed in these industries, based on a State-wide survey, resulted in the following estimates: In mercantile employment, $523.27 per year; in factory employment, $489.24 per year; in laundry employment, $499.27 per year. This survey was made contingent on a budget of expenses comprising thirty items, and embracing all necessities of living, divided as follows: Meals, room, shoes and rubbers, repairing shoes, stockings, underwear, petticoats, suit, coat, dresses and aprons, shirtwaists, handkerchiefs, corsets, corsetwaists, gloves, neckwear, hats, umbrella, repair of clothing, laundry, medicine and dentistry, street-car fare, newspapers and magazines, stationery and postage, association dues, insurance, vacation expenses, amusements, church and other contributions, and incidentals.

The wage investigation developed the fact that the wage rate most generally received by experienced women in the different occupations was approximately $8 per week. It was shown that 55.6 per cent. of mercantile store employees, 71.2 per cent. of factory employes and 72.4 per cent. of laundry employes earned less than $10 per week. Of the total number of women employees in factories and laundries, 39 per cent were paid less than $8 per week. The lowest wage recorded was $3 per week, not including millinery shops, where apprentices were in many instances receiving little or no salary.

Upon the result of these investigations, conferences consisting of three employers, three employes and three disinterested persons representing the public, were called by the Commission for each industry. These subordinate wage boards, pursuant to law, recommended to the Commission for its adoption or rejection an amount considered adequate to maintain a self-supporting woman in health and comfort.

In this manner legal wage rates have been established in four of the leading industries of the State. The dates upon which they became effective and the weekly rates are as follows: June 27, 1914, mercantile industry, $10; August 1, 1914, manufacturing industry, $8.90; August 24, 1914, laundry industry, $9; September 7, 1914, telephone industry, $9.

The above wage rates apply to experienced women over the age of eighteen years, while a flat wage of $6 per week has been established for all minors under eighteen years of age, employed in the different industries mentioned.

The Washington law makes special provision for the inexperienced worker so that the two classes of workers, experienced and inexperienced, may be handled independently of each other. The results thus far obtained show the wisdom of this course. The section of the law covering this question reads:

> "For any occupation in which a minimum rate has been established, the Commission through its secretary may issue to a woman physically defective or crippled by age or otherwise, or to an apprentice in such class of employment or occupation as usually requires to be learned by apprentices, a

special license authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix the minimum wage for said person, such special license to be issued only in such cases as the Commission may decide the same is applied for in good faith and that such license for apprentices shall be in force for such length of time as the said Commission shall decide and determine is proper."

The effectiveness of minimum wage legislation is largely dependent on the manner in which the apprenticeship question is handled. The Washington Commission has perhaps pioneered the way in this regard by evolving a system of issuing special licenses to learners, a plan that is intended to safeguard the interests of the apprentice as well as the skilled worker by limiting the number of learners in an establishment, by regulating the period of indenture and by specifying the wage increases at stated intervals within that period. As a matter of fact the situation is fully controlled by the Commission in such a manner as to eliminate the abuses that are inherent to the apprenticeship question and which usually result in weakening the whole minimum wage structure.

In constructing its apprenticeship policy the Commission has taken advantage of a most liberal interpretation of that section of the law pertaining to the issuance of licenses. Of the hundreds of various occupations in the different industries each is given individual consideration in determining the period of indenture and the wage that the apprentice is to receive. By limiting the number of apprentices in each establishment a general displacement of skilled workers is prevented. For instance, apprentices in mercantile establishments are limited to seventeen per cent. of the total number of females employed in each establishment.

That the apprentice may be paid according to the skill that she acquires in her advancement toward the minimum wage, the Commission requires in the terms of the license that an increase in wages must be given at stated intervals. These increases are computed according to the advancement of the average learner in her earning capacity and are based on investigations into the

particular occupation to which the license applies. The piece work system has afforded a practical basis upon which to make these adjustments. The degree of skill required in each particular occupation is also a governing factor in fixing the period of indenture, this from the fact that the established minimum wage is not intended to represent the maximum earning power of a skilled worker. Therefore, it must not be presumed that the period of indenture allowed is intended to be the full term of apprenticeship, but rather to be that period of time necessary to reach the point of earning the minimum wage.

The gradual increase in wages as the apprenticeship proceeds is designed to protect the apprentice from being discharged when her term of indenture terminates, at which time she graduates into the minimum wage class of workers, and this method offers no injustice to her employer as the adjustment is regulated according to her earning ability. These periods of advancement in wages vary according to occupation, and are divided into two, three or four periods as conditions justify. For instance, in an occupation where nine months' apprenticeship is allowed, the beginner receives $6 per week for the first three months, and an increase of sixty cents per week at the beginning of each successive two months' period until she receives $7.80 for the last two months prior to entering the minimum wage class at $9 per week.

The apprenticeship question, having been brought to light through the minimum wage, has precipitated a discussion of its problems among the educators of the State, which has already crystallized into a concerted movement to have the question brought before the coming Legislature with a view of establishing a system of vocational training in the publis schools which when achieved may serve to shorten apprenticeship periods as now established.

One resultant feature of the Minimum Wage Law as noted since it became effective in Washington, is that it has had a marked tendency toward raising the standard of efficiency. This is perhaps best illustrated by a letter received from a prominent garment manufacturer in Seattle who operates his factory entirely on the piece work plan. This manufacturer was considerably ad-

verse to minimum wage legislation prior to its enactment. His letter indicates his approval of the law after a fair trial and reflects the general sentiment among that class of employers who realize and observe the rights and interests of their employees. In part he has this to say:

> "Personally, I find that my business has been benefited, as the necessity for greater discipline and a more rigid enforcement of regular hours of work has become fully apparent. We have raised our average weekly payroll, I think I am safe in saying, at least $1 per girl if not more. Some of our help, to be sure, have always done their best and have shown but little change, but those who were satisfied with less, the minimum wage has benefited, as they saw they must earn more or quit.
>
> "I am writing you this personal letter about my personal experience in an individual case. It has been a benefit in this factory in raising the standard of efficiency and in forcing a closer application to duty on the part of the operator and necessarily has been a benefit to the employer. I am not in a position to speak for other factories and industries, but, aside from some hardship that the law may work on the less competent, I cannot see why it will not give a greater efficiency to our factory forces."

The above expression of satisfaction does by no means indicate that the working girls as a whole have not been likewise benefited, for it is apparent, after due investigation, that each worker is now receiving more nearly the full amount of her earning ability. This applies principally to establishments where employers sought to reap large profits by taking advantage of an overcrowded labor market, without considering the justice of a living wage.

The minimum wage has demonstrated that employers, when forced to pay a living wage, insist on securing the most efficient help obtainable. This is amply illustrated by the fact that less than eight per cent. of the total number of females now employed are licensed apprentices, which no doubt is largely due to strict regulation by the Commission. A survey now being made to

determine the effects of the operation of the Minimum Wage Law indicates that there has been no tendency of the minimum becoming the maximum. But few instances are noted where highly paid workers have had their wages reduced, in fact the cases are so few that they have no bearing on the situation. On the other hand a considerable number of workers have received a substantial increase in many instances of from three to four dollars per week. The results of this survey will be published shortly.

That to some extent the sub-average workers have been displaced cannot be denied, yet the number so affected does not nearly approach the number of those that have received an increase in wages through the operation of the law.

The administration of the law has been successfully accomplished without any serious difficulties. The employers of the State generally have manifested a desire to conform to the rulings of the Commission, and wherever violations have occurred, they have been largely due to ignorance of the provisions of the law and have been readily adjusted without recourse to legal procedure.

WISCONSIN

STATEMENT OF C. H. CROWNHART

The Legislature of 1913 passed a minimum wage act for Wisconsin. The administration of this act was placed with the Industrial Commission. It provided in the act that after July 1, 1914, upon a petition stating jurisdictional facts, the Commission shall appoint an advisory wage board and proceed to a determination as to a living wage. In September, 1914, such petition was filed from the county of Milwaukee, applying to several industries there. The Commission has taken steps towards the appointment of an advisory wage board. Such appointment will be made within a few days. This board will then consider the matter of living wages for all women and children in the county of Milwaukee, and report its findings to the Industrial Commission, when a minimum wage will be established for that county.

As soon as the minimum wage is established for Milwaukee county, it is the intention of the Commission to establish a minimum wage for the balance of the State.

Since the passage of the act, the Industrial Commission has made a somewhat extensive investigation of wages and labor conditions as to women and children in the State of Wisconsin, and this data will be placed before the minimum wage board of Milwaukee, and will be considered by that board. It is probable that a minimum wage will not be established before January 1st, next.

4. INDUSTRIAL EDUCATION AND WAGES

In November, 1914, the Commission sent letters of inquiry to a selected list of employers and educators, on the relation of industrial training to wages. Replies were received from the following:

WILLIAM C. ASH, Principal, Philadelphia Trades School, Philadelphia, Pa.

W. H. BELCHER, Vice-President and General Manager, The Walter M. Lowney Co., Boston, Mass.

MEYER BLOOMFIELD, Director, Vocation Bureau, Boston, Mass.

JAMES E. DOUGAN, Principal, Boys' Industrial School, Newark, N. J.

JOSEPH J. EATON, Principal, Saunders Trade School, Yonkers, N. Y.

A. CASWELL ELLIS, Director, Department of Extension, University of Texas, Austin, Tex.

ALFRED P. FLETCHER, Assistant Superintendent of Schools, Rochester, N. Y.

FREDERICK A. GEIER, President, Cincinnati Milling Machine Co.

LEWIS GUSTAFSON, Superintendent, David Ranken, Jr., School of Mechanical Trades, St. Louis, Mo.

F. C. HENDERSCHOTT, Secretary, National Association of Corporation Schools, New York City.

ERNEST M. HOPKINS, Curtis Publishing Co., Philadelphia, Pa.

W. B. HUNTER, Director, Industrial Department, High School, Fitchburg, Mass.

PLINY A. JOHNSON, Principal, Woodward High School, Cincinnati, Ohio.

MILLARD B. KING, Expert in Industrial Education, State Education Department, Harrisburgh, Pa.

PAUL KREUZPOINTNER, Chairman, Committee on Industrial Education, American Foundrymen's Association, Altoona, Pa.

JOHN A. LAPP, Director, Bureau of Legislative Information, Indianapolis, Ind.

JAMES P. MUNROE, President, Munroe Felt and Paper Co., Boston, Mass.

H. B. R. SCHEEL, Brighton Mills, Passaic, N. J.

ALBERT SHIELS, Director, Division of Reference and Research, Board of Education, New York City.

J. G. SPOFFORD, Principal, Quincy Industrial School, Quincy, Mass.

MARY SCHENK WOOLMAN, President, Women's Educational and Industrial Union, Boston, Mass.

STATEMENT OF WILLIAM C. ASH

In Philadelphia we have not been able to make any arrangement with unions concerning the work of the trades schools. We have, however, organized continuation classes in printing and sheet metal work — which organization has resulted in the development of formal apprenticeship agreements between the employers and the apprentices in these trades. I enclose a copy of the sheet metal workers' agreement from which you can get the wage rate.

I feel very strongly that as the proper methods of teaching are developed and the work of vocational schools is brought up to a certain degree of efficiency the employers and the unions should make formal recognition of the time and effort to learn the trade, spent by apprentices outside of shop. This duty on the part of the employers and the unions is especially evident in cases where the school work is done in the evenings. For instance, we have in the Philadelphia Trades School 400 plumbers' apprentices who attend the evening schools three nights a week for six months in the year. Certainly some substantial recognition should be made for these young men who are willing to make so much sacrifice.

Of course, in considering the possibility of shortening the time we are face to face with the proposition of sending forth a juvenile as a journeyman mechanic and, as the tradition of ages has fixed 21 as the age of beginning for a journeyman's career, it seems that at this time some other form of recognition would have to be made. When action is taken on this matter I suppose that a wage increase, which will be equivalent to a modified journeymanship, will be the form of the reward.

STATEMENT OF W. H. BELCHER

We have had for some years, what we call a school for chocolate dipping, which is a room set apart and properly fitted up for the purpose of teaching girls how to dip chocolates — this being, with us, largely a hand proposition. This school has been in operation only certain months of the year, say from July 1st to the end of the year. At the present time conditions are such that we have a large force and are not now operating the school.

This chocolate dipping school is the only sort of vocational training which we do systematically — other training in our bonbon, chocolate and paper box factories being done in the various workrooms. The whole point of the separate school for chocolate dipping is that individual attention may be paid to girls and proper instruction given, so that when they go into the workrooms they may not need as much supervision as if they went there totally inexperienced. Again, it affords us an opportunity, by careful supervision, to determine whether girls are actually adapted for hand work, before they get into the workrooms. Many of our girls are on piece work, and systematic training affords them an opportunity of starting out with better wages, and offers also the opportunity of more rapid advancement. In our industry, a girl who does hand dipping is really an expense for some time, unless very carefully instructed, because she not only takes the time of supervisors, but wastes material. We pay for the time of the girls in the instruction room.

As a matter of outside interest, we allow two classes of girls to go twice each week to a household arts continuation school, at the North Bennett Street Industrial School, near our factory, paying the girls for the time they are in attendance at the school.

STATEMENT OF MEYER BLOOMFIELD

There is so little material of a comprehensive character on the question of the relation of industrial education to wages, that we are forced, for the present, to fall back on common observation, and the testimony of reliable witnesses, for support of the contention that wages and improvement in industrial quality are interrelated.

To be sure, we have the convincing annual reports of such institutions as the Williamson School, the Hebrew Technical Institute (whose annual record of its graduates' earnings is most illuminating), the Beverly Industrial School, and scores of others which provide vocational training. Moreover, we have the data furnished by such important private enterprises as the Schmidlapp Fund of Cincinnati and the Vocational Scholarship Fund of the

Henry Street Settlement to show that industrial training with a definite group of children positively lifts these children above the wage levels of untrained children. In the apprenticeship courses of various large industrial establishments we have again conclusive evidence as to the effect of training on earning capacity.

It is sometimes intimated that testimony from such enterprises is based on the records of necessarily selected groups, and therefore cannot be considered final. If we had a universal scheme of industrial training we should indeed be in a better position to argue the case. Nevertheless there is sufficient experience and a reliable mass of observed cases to furnish a basis of comparison between groups of workers who have entered upon wage-earning with some preliminary training and those without such training.

If we look upon earnings from the viewpoint of steady income we find still further support in favor of the economic value of industrial training. Apart from financial crises and depressions which no training can possibly affect, as the causes lie outside the scope of educational forces, it is well known that the trained worker is better off as to regularity of employment, adjustability to new demands, and the possibility of making headway, than the untrained worker.

From the viewpoint of the State, the nature of the industries which any community can carry on, whether those industries are to be high-grade products paying high wages, or low-grade products demanding cheaply paid labor, depends largely on the industrial quality, the intelligence, health, and equipment of the workers.

In brief, then, industrial training brings earning opportunities to those who have it, not possible to those without it; such training helps toward steady earnings, regularity of employment, and to a progressive career; and above all else it materially determines the type of productive enterprise which a community may engage in.

In addition to the economic aspects of industrial training are fundamental social and civic considerations which in themselves justify the thought and expense involved in sound schemes for helping the present and the future workers to make good in the work that society needs.

STATEMENT OF JAMES E. DOUGAN

I have your letter regarding the study of wages. At present we have no binding agreement with any employers or labor unions as to what wage our graduates should be paid nor as to what time, if any, should be deducted from their apprenticeship.

I have been working on this phase of our school work for some time but it seems to be a difficult problem to solve. The fact that the boys are so different mentally and physically seems to make employers hesitate to make any agreement concerning them all. They would rather judge each individual case on its own merits.

I have personal knowledge of cases where graduates of this school have started work at the trades as high as $12 weekly, but there is no agreement with this firm to that effect. I think that we can properly say that graduates of this school start to work at a wage increased from two to six dollars over those not so trained.

STATEMENT OF JOSEPH J. EATON

There is no doubt whatsoever in my mind that boys who secure the proper shop instruction, together with practice in the use of tools and machinery (and having all this supplemented by correlated work in academic subjects), as a rule, are better equipped to undertake real work in the shop and factory. Of course, it is understood that the boy has to select the kind of shop work, in the school, which he most desires, and that he is not handicapped at the beginning by mental or physical inferiority. Above statements are based upon actual observation of boys who were trained for the textile industry, for carpentry work, and for machine work, and cover an experience in industrial school work for a period of seventeen years. The Saunders Trade School has been established but three years, thus giving us but little opportunity to verify the above observations which were made elsewhere. However, fully 70 per cent of our graduates are at work in the trades for which they were prepared, and I have yet to hear of any complaint being made from any employer regarding any boy whom we have recommended. On the contrary, in many cases, we have been informed

that the boy's work has been entirely satisfactory. We are highly desirous of receiving the approval of the union workers in the various trades. At the present time, the electrical workers' union has incorporated a clause in their apprenticeship agreement whereby apprentices are granted credit for their work in this school on the basis of one year's advancement for each two years spent here. Furthermore, the same union requires that all apprentices must attend the Saunders Evening Trades School.

STATEMENT OF A. CASWELL ELLIS

My views on the relationship of industrial training to wages would cover a great many pages, and have been embodied in a bulletin of the National Bureau of Education which will be printed sometime between now and January. I would suggest that you keep a lookout for this bulletin, and if you have any difficulty in securing it, let me hear from you. The matter is too lengthy to discuss in a letter. If after reading this you think I could be of any further service to you, I should be glad to do so.

STATEMENT OF ALFRED P. FLETCHER

The following circulars will explain the definite arrangements that we have in two trades with regard to the boys who have been trained in our Shop School. The printing agreement fails to state that the boys on completing two years of outside work receive their journeymen papers and are admitted to the union.

These are the only absolutely definite agreements that we have at the present time. In some of the other trades graduates of the school are given a higher wage than they would otherwise receive but as yet this has not been formally agreed to.

The enclosed agreement with the painters and decorators is now in the "works." An agreement with them will probably be consummated within the next few weeks.

I. Agreement Between the Rochester Typothetae and the Rochester Shop School

The term of apprenticeship in the printing trade shall be four years, three months of which shall consist of a preliminary or "try out" course at the Rochester Shop School. During this preliminary course the fitness of the pupil for the printing trade shall be determined.

Upon completing this preliminary course, the pupil may enter the employment of some printing plant as an apprentice, the Typothetae agreeing to provide places for a certain number of pupils each year. The apprentice shall alternate weekly between the shop school and said printing plant, and is to receive from the employer a weekly wage of $4 for the balance of the first six months — $4.50 for the second six months — $5 for the third six months, and $5.50 for the fourth six months. The employer is to pay wages for the school time as well as for shop time.

After this period, having faithfully performed his duties, he may devote the remainder of his apprenticeship entirely to the shop, and for which he shall receive $9 per week for the first six months, $10 per week for the second six months, $11 per week for the third six months, and $12 per week for the fourth six months, during which time, however, he shall be considered under the supervision of the shop school, and upon completion of the school term and apprenticeship, having passed all the examinations and being graduated from the shop school, he shall receive from the employer as a gratuitous bonus, in addition to his salary and not as any part thereof, the sum of $100.

II. Painters' Agreement

(June 19, 1914.)

I. The shop school shall give to boys who are not less than sixteen years old and who have completed at least the seventh grade, or preferably to boys who have completed the work of the elementary schools, a general industrial or "try-out" course of such length as the school authorities may deem necessary, and shall select those who have an aptitude for and an ambition toward the trade of painting.

II. The shop school shall give boys thus selected a preparatory course of approximately two years, one-half of each day being spent in shop practice and the other half in the study of shop mathematics, mechanical drawing, applied science, industrial history, civics and English.

III. Upon the satisfactory completion of this course the printing employers of Rochester shall employ these boys in such numbers as trade conditions or shop managament shall warrant, at the following scale of wages: $7 per week for the first year; $10 per week for the second year; $13 per week for the third year.

IV. During the three years' apprenticeship the employer shall allow the boy, during working hours, an amount of time off equivalent to one-half day each week for continuing his studies, such time to be taken when manufacturing conditions will best permit.

V. The first three months of employment as provided in articles III and IV shall be considered a probationary period and the diploma of the school shall not be awarded until the satisfactory completion of this probationary period.

VI. The members of the Master Painters' and Decorators' Association of Rochester shall select a committee of three of their number who shall, first, inspect frequently the work of the shop school and offer criticisms and suggestions for the improvement of the work; second, suggest tests that shall measure the pupils' progress in manipulative skill and technical knowledge; third, suggest tests that shall measure the qualifications of the boys for graduation.

III. Letters from Rochester Manufacturers to the Rochester Department of Public Instruction

M. D. KNOWLTON Co., Paper Box Machinery

We are interested in your proposition to train boys for the machinist's trade and if business conditions are normal, we shall be able, in 1916, to take four boys as apprentices. These boys will be employed at the following wage scale: $8 for the first six months; $9 for the second six months; $10 for the third six months, $11 for the fourth six months, with a bonus of $100 to the boys who complete two years' work with us. During these

two years we are willing to try out the "half time" plan provided the time unit of employment can be three months.

It is understood that the $100 bonus is only for young men that complete the course of four years as outlined by the school board, viz., two years at the technical school and two years in the shop.

GLEASON WORKS, *Gears and Gear Cutting Machinery*

We are interested in your proposition to train boys for the machinist trade, and if business conditions are normal, in 1916, we would take two boys for a two-year apprenticeship and pay them the prevailing wage scale for apprentices at that time and a bonus of $100 to the boys who complete two years' work with us.

During this period we would be willing to allow the boys the equivalent of one-half day off weekly to continue their work in the Rochester Shop School and will pay them for this time.

AMERICAN WOOD WORKING MACHINERY CO

Replying to your favor of February 28, with reference to the machine department of the Rochester Shop School, would say that we are interested and want to give this movement all the encouragement possible.

We shall be able, in 1916, to take two boys as apprentices, they having completed a two years' course in the machine department of the Rochester Shop School.

These boys will be employed by us at the following wage scale: $8 for the first six months; $9 for the second six months; $10 for the third six months; $11 for the fourth six months.

We would be willing to allow the boys the equivalent of one-half day off weekly to continue their work, if the proper interest is shown.

EASTMAN KODAK CO., Photographic Supplies.

We are interested in your proposition to train boys for the machinist's trade and if business conditions are normal, we shall be able, in 1916, to take two boys, eighteen years old, as apprentices, after having completed a two years' course in the machine department at the Rochester Shop School. These boys will be

employed by us at the following wage scale: $8 for the first six months; $9 for the second six months; $10 for the third six months; $11 for the fourth six months, with a bonus of $100 to the boy who completes two years' work with us.

We would be willing to allow the boy the equivalent of one-half day off weekly to continue his work in the shop school and would pay him for this time.

STATEMENT OF FREDERICK A. GEIER

It is somewhat difficult to make a definite statement on the relationship between industrial training and wages. I might say, however, that greater industrial intelligence is being demanded to meet the more intensive competition and also the demands that are coming through social legislation for shorter hours, compulsory compensation, etc., and with this demand for greater efficiency, wages are gradually going higher.

I believe that through industrial education we can in time so improve the quality and efficiency of labor as will bring about that intelligent co-operation which will permit the employer to pay higher wages and at the same time enable him to hold the cost of his product down to where it should be.

STATEMENT OF LEWIS GUSTAFSON

There seems to be a tendency on the part of the Carpenters' Union to require one year of practice from our graduates before giving them a journeyman's card. I have been told that one organization of painters will give them a card on fulfilling the same requirements. Our course of study is two years; the apprenticeship is four; so that we may say where this prevails two years in the school is equivalent to three years in the trade. There has been no definite arrangement, however. A number of boys have joined the unions in other trades, but they have done so by finding work where they could get it and then proving themselves equal to journeymen. In most cases this has taken several months. We have no positive data on the subject.

The requirement of one year seems to us very just. Regardless of the thoroughness with which boys in a school may be trained, a year of supplementary experience under the various conditions arising in the commercial world seems highly desirable.

The following is a form of contract to be entered into between the employer, apprentice and the Master Tin and Sheet Metal Workers Association of Philadelphia as sponsor for the boy.

CONTRACT

This agreement, made this day of , 19 , between of the city of Philadelphia, to be known as the party of the first part, and parent or guardian of of said city, to be known as party of second part, and the Master Tin and Sheet Metal Workers Association of said city, hereinafter called the party of the third part.

Witnesseth whereas, The said is serving an apprenticeship of four years with the said party of the first part, at a stipulated rate of wages herein agreed upon,

And whereas, It is recognized as advantageous to both parties that the said apprentice should continue with and faithfully serve the said parties of the first part during the term of said apprenticeship which will expire provided he has no lost time to make up.

Now this agreement witnesseth, That the said apprentice as aforesaid does hereby agree with said parties of the first and third part that shall in all respects faithfully serve the said and to the best of his knowledge, perform such work and duties as he may be directed to perform for the said for the entire term of said apprenticeship of four years.

In consideration whereof, The said does hereby agree to pay into the treasury of party of the third part (the Master Tin and Sheet Metal Workers Association), the sum of $1 per week, for each week the said apprentice shall have worked, from the date of this contract, until the end of such term; out of which and at the end of such term the party of third part will pay said party of first part the sum of $200.

Provided, And it is expressly understood and agreed, that should the said apprentice be discharged at any time for failure

to obey the directions of the said or its proper agents and managers, or should he fail to faithfully serve the said during the entire period agreed upon, of his apprenticeship that then and in either case he shall not be entitled to receive any portion of said fund and the agreement shall in such event, become null and void, and in no case shall the premium hereby agreed to be paid, be considered as wages, but merely as a reward fund for satisfactory and intelligent service for a period of four years.

Provided further, That the said apprentice shall attend school one full day per week and be subject, while there, to the same conditions as though such attendance were necessary to enable him to learn the trade, providing furnish him free tuition.

It is understood and agreed that all necessary instruments and supplies required in prosecuting his studies will be furnished by apprentice at his cost and expense.

Provided further, In the event of desiring to discontinue the business, or the services of the party of the second part because of lack of business, or financial difficulties, it is mutually agreed by all three parties that party of second part may be transferred by the party of the third part to another employer who is a member of the association of the third part, at the first opportunity, and this agreement remains in force by its acceptance and signing by the new employer, whereby party of second part shall be given credit for full time of meritorious service previously served under this contract.

Provided further, In the event of party of second part being disabled or becoming physically unable to perform such duties demanded by the trade, it is mutually agreed by all three parties, that the agreement shall be discontinued by the said association, paying the said apprentice a sum equal to one dollar per week for the number of weeks said apprentice has served, from date of this contract.

And whereas, It is recognized and agreed that it is mutually advantageous to the parties of the first, second and third part that the party of the second part attend regularly the school provided and designated by the parties of the first and third part.

Be it understood and agreed, That party of third part, shall name a day of the week, on which day party of first part will

order the party of second part to attend the full session of school from nine to twelve o'clock and twelve-thirty to three-thirty o'clock that day; for which party of second part will receive a full day's pay; provided further, if party of second part shall absent himself any fraction of the session, he shall receive pay only for as many hours or fraction, as he is present, and should he miss two sessions without just and sufficient reason, the party of third part shall investigate the cause and shall recommend suitable penalty, according to circumstances, to which all parties herein mentioned agree to, forthwith.

It is further agreed, That the party of the first part will pay the party of the second part according to the following rate, during the three months' probation period and for and including the first eighteen months of this contract.

Probation period (three months)	$5 00 per week
First six months of contract	5 00 per week
Second six months of contract	5 50 per week
Third six months of contract	6 00 per week

and from the end of the first eighteen months to and including each additional six months period until the expiration of this contract, a sum not less than fifty cents shall be added, at the expiration of each six months' period.

In witness whereof, The said parties hereto have hereunto set their hands and seals, the day and year first above written.

Signed, sealed and delivered in the presence of

..... (SEAL).

Witness.....,

Parent or Guardian
of .....

Witness.....,

Employer.....

Witness.....,

Master Tin and Sheet Metal Workers
Association of Philadelphia.

....., *President.*

(SEAL) ....., *Secretary.*

STATEMENT OF F. C. HENDERSCHOTT

Your first question — enacting minimum wage legislation. I have given much study to this subject but I have not reached a definite conclusion. I am of the opinion that minimum wage has but little to do with many of the evils attributed to it. At one time there was a strong sentiment that morality among women was affected by the wages which they received. This sentiment I think happily has disappeared. So many things enter into the earning capacity of the individual that I have not yet been able to bring myself to the conclusion that legislation will remedy the evils which we find in low wages. I believe the subject should be approached from another direction. I think there is no argument against the contention that the well trained boy or girl has a greater earning capacity than the untrained or unskilled worker. I do not wish to go on record as opposed to the increase of earning capacity of the unskilled worker but I am not yet convinced that legislation, especially in the form of a law establishing a minimum wage, will correct this condition. The law of supply and demand cannot be successfully succeeded by a minimum wage.

Your second question — relationship between industrial training and wages. This question, to by mind, goes straight to the heart of the subject you are considering. According to statistics obtained from the report of the Government's Bureau of Education for 1912 (the latest government statistics available) only about 4 per cent. of the adult male population of the United States has had high school education, and only about 2 per cent. has had academic training. Not all of these small percentages are graduates either of the high school or the colleges or universities.

Turning to "Who's Who in America" we find, upon making a compilation, that about 85 per cent. of those recorded in this book received a high school education and nearly 66 per cent. had academic training.

Turning now to the situation in our public schools in New York City, last year there were 661,000 pupils enrolled (exclusive of the parochial schools) but only 4,079 graduated from the high schools. Many of the scholars did not go beyond the

fifth grade, many more reached only the sixth grade and less than half of the total enrollment will graduate from the grammar schools. Less than 16 per cent. of the total enrollment will enter the high schools. The situation in New York is not unusual, on the contrary, it is fairly representative of the conditions found in the average American city. These figures bring out clearly the mortality in education in our school system. The children who drop out mostly around the fifth and sixth grades go into industry. It is this class that the minimum wage is designed to help. You cannot fix an arbitrary scale of wages without regard to earning capacity and successfully maintain the scale. What is needed is more training for this great majority of American boys and girls who leave school from various causes but who must earn a living. The trained man or the trained woman surely has a greater earning capacity than the untrained and unskilled. It is my judgment, at this time, although I do not claim to have solved this great problem, that effort directed toward greater efficiency, greater earning capacity, through proper industrial education, will prove the most effective basis for increasing the earning capacity of that unfortunate class who would be affected by a minimum wage scale in industry.

STATEMENT OF ERNEST M. HOPKINS

One relationship between industrial training and wages may be stated very simply. A large proportion of the industries of the country need and are constantly seeking for workers capable of development, and are willing to pay an increased wage when such capacity shall be shown. The supply to satisfy this demand is altogether insufficient, the largest responsibility for this fact being undoubtedly due to the inadequacies of our past educational methods.

Little criticism can be offered in regard to what the public schools have done toward giving children the tools of learning. When they have done this, however, and have come to the point where they should direct the use of these tools — where they should apply knowledge of reading, writing and elementary

figuring — they have been able to deal with the problem far less effectively than in the more elementary work. This has resulted in a special detriment to the State, since citizenship and industry have suffered jointly from the inadequacy of the educational method.

The host of low paid workers in so many industries is due, I believe, to the fact that a large majority of these are not competent for positions paying a higher wage, while a small minority are withheld from higher wages through having become enmeshed in the disqualifications of the majority. Not only this, but flexibility and adaptability to environment are so lacking that it is impossible to utilize the great majority of workers, with success, on anything except that for which they have received their specialized experience.

The solution of the problem is not, to my mind, so much in attempting to cure the evils which exist as it is in taking measures which shall preclude the continuance of these evils. The first essential is to afford such training to the youth of the State, during their school years, as shall give background, breadth and capacity to those who are going into industry and who would, otherwise, be unguided and untrained.

It is going to be more and more necessary for the citizenship of the States that these commonwealths interest themselves in the problem of the low-paid worker. The minimum wage, at the most, will only accomplish greater refinements in measuring efficiency of workers, and consequently will segregate the comparatively incompetent in the group of the unemployed. Herein they are sure, in one way or another, to become a liability to the State. Industrial education, on the contrary, if rightly applied, will tend to breed competency and adaptability, which will justify and can command higher wages.

Many kinds of industrial education have already been tried out within the United States, and the results by which the different systems can be judged are beginning to be available. Much has been done, I believe, which has been good, without being of the greatest benefit. The night school is a makeshift, helpful to some, but imposing an undue burden upon the health and vigor of the many, while incapable of reaching the great majority.

Certain types of trade schools, likewise, seem to me to ignore the advantage which comes from training which breeds adaptability in the workers. From such studies as I have been able to make, I believe very strongly that continuation and part-time schools, especially if combined with vocational guidance, afford the best devised industrial education. Under such a system, a State can save a large part of the economic value now lost through the incompetency of the worker or mal-adjustment of his talents to the industrial problem.

STATEMENT OF W. B. HUNTER

The graduates of the Coöperative Courses of Fitchburg fit right into the industries and are accepted by the manufacturers as journeymen upon the completion of the course of four years in the high school and three years of alternate shop and school consisting of twenty weeks school and thirty weeks shop yearly. The shop period is 4,950 hours, 1,650 hours each year. The wages are ten cents per hour the first year, eleven cents per hour the second year, and twelve and one-half cents per hour the third year. Wages paid on completion of apprenticeship vary in different shops and on different kinds of work according to the ability of the boy, some receiving $2.25 per day, some $2.50 per day and others $2.75. Some on piece work have received as high as $30 per week, a year after graduation, and in general the wages of these apprentices increase more rapidly than the old time apprentice, a year or so after they become steady shop workers because they have the ability to read blue prints and figure the shop examples which the better class of work requires. I am constantly receiving notice of this as I go about the shops and converse with foremen and regular journeymen, and the fact that some of the workmen come to our night class shows that they recognize the value of the instruction given in the course.

There should be, in my judgment, a certain standard of mental and manual dexterity in each line of work, commensurate with the wage paid, and conversely, the wage paid should be commensurate with the mental and manual dexterity, for labor and wages are so closely related that they should be reciprocal. The best

method to obtain these is the industrial school which looks not merely to manual skill but to mental training which shows the workman his duties and privileges as a citizen and social unit in the community as well as giving him particular and specific training pertaining to his trade.

Now if the state is to regulate the wages of every workman it must be fully informed as to the necessary qualifications of each worker in the thousand and one trades and subdivisions of trades, an enormous task. Highly specialized trades may be more easily cataloged than more diversified ones, and while large corporations may be able to pay high wages, a small concern may be driven out of business if compelled to pay this same wage. The workman on his side would have to be examined to see if he came up to the standard, and whereas many men by reason of many years of practice are doing work in a highly satisfactory manner with seemingly few qualifications for the job, another who appeared to be excellently fitted for the work would fail completely to fill the bill. It must be apparent that some things besides mere examination are necessary to determine who is fit and who unfit. It is a lamentable fact that the machinist and allied trades which demand the highest type of worker receive much less compensation proportionately than some of the less skilled trades. If a State board could level up such differences it would undoubtedly mean an increase in the cost of many articles to the consumer.

As a man who has worked at a trade myself and had to attend night school to get much of my education, I commend any and all efforts to give the worker opportunities for getting the kind of education that he needs to put the dollars in his pocket, and I also recognize the intense need of better educated workers to enable our manufacturers to produce the quality work that the sturdy New England character of the past generation turned out, and which is too often missing in this day.

To close: I believe that a better worker with more mental and manual dexterity, obtained through real industrial education will command better wages, and will be paid better wages, because he produces the goods, and a State investigation that recognizes these facts will be beneficial to both state, worker and employer.

The Fitchburg Plan of Coöperative Industrial Education

Organized August 1, 1908

THE COÖPERATIVE DOOR

The Coöperative Industrial Course of the Fitchburg High School, patterned after the idea of Dean Schneider of the University of Cincinnati, was organized August 1, 1908, at the initiative of Mr. Daniel Simonds, late president of the Simonds Manufacturing Company, and provides an opportunity for learning a trade and obtaining an education at the same time. This is accomplished by spending alternate weeks in the shops of the city and the high school as an apprentice in the following trades:

Machinist, patternmaking, sawmaking, drafting, iron molding, tinsmithing, piping, printing, textile and office work.

The course is of four years duration, the same as the regular high school course. The first year is spent wholly in school, and the next three alternate weekly between shop and school. A trial period of two months, beginning at the end of the first school year, is given each candidate to see if he is adapted to the particular trade he elects, and his parents sign an agreement whereby the apprentice agrees to complete the full course, and the manufacturer, on his part, agrees to teach him the rudiments of the trade as designated in this agreement.

Allotment to the various shops is made in June by the director of the course, and, as far as possible, the desires of the boy as to the shop he prefers are met.

Wages are paid for shop work at the following rates: First year, ten cents an hour; second year, eleven cents an hour; third year twelve and one-half cents an hour; making a total of approximately $550 for the three years of shop work.

The first class graduated in June, 1911. Of this class, four are attending the Coöperative Courses of the University of Cincinnati, continuing their studies for engineers or teachers. The majority of the class is working at their respective trades at wages ranging from $2.50 to $3.50 per day. One of the first year's graduates is getting $25 per week, and another $40 per week. Ninety per cent. of the graduates are working at the trades they learned while

taking the course. Members of the course who are now alternating between shop and school are earning over $15,000 per year.

The studies are along such lines as will better fit them to practice their trades as skilled workmen and thinking mechanics, and are actually correlated to the trade. English is taught in a vital manner, so that the boy can tell about his work in clear language and write descriptions of it that can be understood. A weekly written and oral report of his shop work is required, to be filed for reference as to his progress in his shop work. His reading is directed along such lines as will acquaint him with the history of industry, the progress of trade and invention which has made this manufacturing age the greatest epoch in the world's history. He does not ignore the classics, however, for he has an æsthetic nature that requires cultivation as well as the professional student.

Freehand and mechanical drawing are essentials to progress in the trades, and are an equipment that enables him to read blueprints and proceed with his work on his own initiative.

Physics teaches him to understand the laws underlying all mechanics.

Chemistry acquaints him with the nature and structure of materials.

Shop mathematics train him in the problems that arise in daily shop work.

Civics teaches him the duty of citizenship.

Mechanism of machines teaches him the principles and methods of manufacture and operation of shop tools, and commercial geography and business methods to understand the common laws of business.

Economics deals with problems of industry and "Social Service" and broadens his understanding of the problems of the day.

The course is now on its sixth year, having graduated three classes, numbering fifty pupils.

The Fitchburg plan contemplates taking care of any trade or vocation that the community offers for boys or girls to work at. It is planned to take up the building trades, agriculture and women's occupations just as soon as the demand for them is made.

The social side is fostered by the Fitchburg Industrial Society, to which any member of the course above the freshman class is

eligible. Monthly meetings are held, at which talks on subjects of interest and profit are given. The course also publishes "Coöperation," in which items of interest to the school and shop are chronicled.

This, then, is the "Fitchburg Plan" of industrial education, the first public school idea in the country to really care for the needs of the mechanic and furnish him with such an equipment that on graduation from the high school he is a breadwinner, with a place in the ranks of the world's busy workers.

STATEMENT OF PLINY A. JOHNSTON

The industrial students of this school are not apprenticed to the shops for we feel that this would shut the door against any chance to make a necessary change of occupation.

Our pupils are paid on an average of eleven cents per hour. You will understand that the industrial pupils coöperate with the shops on the outside only in the third and fourth years.

STATEMENT OF MILLARD B. KING

That there is a definite relationship existing between industrial training and wage is very clearly shown by the study of the returns from many of the technical, trade and apprentice schools which are in existence. A study of these returns shows that there is a definite increase from year to year in the wages of the trained worker. On the other hand, a study of the wages of the workers who have not been trained for the industries, shows that their wages increase little, if any, and that the wages are less than those of the skilled workers.

While it is undoubtedly true that industrial training will not make yearly jobs out of seasonal jobs, nevertheless the training received in industrial schools will fit the worker so that he may adapt himself more readily to occupations which are not seasonal, or, at least, to those that offer a higher remuneration than the one in which he is now employed.

Industrial training will make it possible for the boys and girls to whom the doors of skilled industries are now closed to enter those industries on a better footing and gradually increase their earning capacity. The more intelligent the worker, the less the scrap heap. While the wages of the intelligent workmen may not be increased a great deal in the immediate future, a continual reduction of the scrap heap is bound to react favorably upon those who bring about this saving.

While interviewing a number of presidents of large corporations and superintendents of various plants, the statement has frequently been received that all workmen who attend the apprentice and evening schools are advanced more rapidly than those who did not avail themselves of the educational opportunities afforded.

As the Pennsylvania State system of industrial training was inaugurated in August, 1913, there has been little time to observe its effect upon wages. However, a number of instances come to mind in which the increase of wage, also the advancement to a higher position with the accompanying increase in wage, have been due to the training received in industrial schools.

In the city of York, before the continuation school started, the apprentices received six cents per hour. After the industrial school was started and its effects were felt by the industries, the apprentices' wages were increased to seven cents per hour for the first period, eight cents for the second and so on gradually, until fifteen cents an hour was reached for the sixth or last period of time. This increase applied not only to the boys who were attending the continuation school, but it reacted favorably upon all of the other apprentices who did not attend the school.

Again, the conditions existing in the mining industry may be cited, as mining is one of Pennsylvana's chief industries. A mine worker is not eligible to the position of mine foreman, assistant mine foreman or fire boss, without a certificate being granted by the mine examining board. The positions of mine foreman, assistant mine foreman or fire boss are very desirable ones, in that they offer nearly steady employment throughout the year, while the men working in the mines may work two, three or four days a week, depending upon the demand of the trade.

In order to secure a certificate, a mine worker must pass an examination on subjects relating to mining, such as gases, ventilation, etc. To pass this examination, it is necessary that a man receive some training in these particular subjects. The reports of the examining board from two districts of the anthracite field show that while the examinations were harder the past year than previous years, the results were more satisfactory than ever. The majority of the sucessful candidates for certificates were students in the industrial schools of the State, while those who did not attend the industrial schools had taken correspondence school courses.

While two cases only have been cited in detail, a similar relationship betwen industrial training and wages exists in a number of other industries.

From my observation of the wage condition before and after the introduction of industrial training courses, due weight being given to the other factors which influence wages, I would make the positive statement that the wages of the individuals who have received industrial training will increase more rapidly and reach a higher point than the wages of those who have not received this training, provided that industrial training courses are so planned as to meet the needs, not only of those already employed in the industry, but those who will eventually become workers in the industry.

STATEMENT OF PAUL KREUZPOINTNER

I judge that what the Commission wishes to decide upon is whether industrial education determines the wage scale or whether wages regulate the kind or quality of industrial education? I believe that, when the present, more or less artificial, excitement about industrial education has calmed down and the sobering effects of the work of social-economic forces begin to assert themselves, it will be found that wages, or rather the economic forces behind wages, will eventually determine the nature and quality of industrial education for the skilled, semi-skilled and unskilled groups of wage earners. There will be subdivisions in the general scheme of industrial education, shading into each other but still

leaving education of the above three labor groups well defined, with one certain feature, described later, common to all.

Industrial education cannot determine the wage scale, because education does not create, but only enhances the value of the factors which establish a wage scale; although education powerfully promotes the development of conditions with an increased distribution of wages. Education is a salable commodity and will be remunerated according to the demand in the market. Yet it is conceivable that, under certain industrial conditions, a general system of education may raise the wage scale of a group or groups of industrial workers. The results of the findings of the New York State Factory Investigation Commission depends largely upon the question whether and how this can be done.

Industrial education is primarily a social-economic problem and not a pedagogic one. Until quite recently the industrial education movement has concerned itself exclusively with the training for a few skilled trades, leaving the semi-skilled and unskilled out of consideration. Their less obvious and more obscure contributions to the success of our industries were undervalued, and therefore the training of their vocational possibilities were neglected. This inevitably led to the lowering of the wages of the semi-skilled and unskilled workers to the lowest possible point, because the finished product had not only to pay for this wage, but in addition was burdened with the invisible cost for waste of material and time and greater wear and tear of equipment and increased cost of supervision, due to the unpreparedness and to the untrained and undeveloped intelligence of the workers. Even after allowing, for argument's sake, for the exploitation of labor through greed and disregard of ethical law, it is obvious that in the modern industrial organization, with its productive capacity and immense quantitative output, there must be a highly developed system of detailed procedure and economies of time and material if there is not to be endless confusion and leakage which, in the aggregate, produce serious and vexatious losses, either unduly increasing the total cost of production and thereby reducing the market for the goods, or making the business unattractive for the investment of capital. The ever changing injection into this delicately balanced economic system of a

lot of persons of unprepared mentality acts like the introduction of grit and dust into the journals of sensitive machinery, creating friction and retardation of speed until the grains of grit and dust have been sufficiently enveloped with the lubricants or have worked themselves out after awhile.

But if this friction and retardation is unavoidable, the drawbacks and losses occasioned thereby must be calculated for and allowance made in the cost of machinery and its maintainance, and no amount of sentiment with the grit and dust getting into the journals will remove the consequences of its disturbing presence.

A minimum wage law will not alter this condition; it will not remove the cause of low wages, but only try to gloss over the effects of the cause. Here, then, we come to the point of your inquiry as to the relation of industrial education to wages.

A couple of years ago an American manufacturer and exporter stated at a trade convention that his firm and other firms producing the same goods were less and less able to compete with the Germans in the markets of the world, not because their workmen were less skilled but because they were so wasteful in time and material, raising thereby the cost of production so as to impair the salability of the products. How did the German manufacturer prevent this waste of time and material by his workmen, and why can we not use the same means to prevent our workmen from wasting time and material which reduces their efficiency and either reduces their wages or, if this is prevented by law, raises the cost of production to the point where the sale of the products is curtailed and workmen will be discharged and only the best ones will be retained?

A minimum wage law without a corresponding raising of the general industrial intelligence of the workers whom it is intended to benefit will react upon our industries in the same way at home as described by the above exporter. Either the compulsory wage addition will raise the cost of production due to lack of training of those who are to be benefited by the compulsory wage, and the sale of the products is curtailed due to the higher cost, with resulting lack of work; or large numbers of the untrained will not be employed, to avoid the cost of friction and retardation of

machinery; or else the public will tax itself to provide such educational facilities for training the unskilled workers to a level equal to the value of the compulsory wage, thus taking from Peter to pay Paul. A confirmation of this intimate relation between industrial education and wage earning capacity we find in the increasing number of shop and apprentice schools and continuation schools. Notwithstanding the high cost of shop schools all the concerns and railroads, supporting such schools, are unanimous in their expression that the outlay in money for instructors and equipment and in time by sending the employees to school during working hours, is repaid and more, through increased mechanical efficiency and higher degree of intelligence; a degree of intelligence which takes a broader view of their work and surroundings and the relation of their work to the industry as a whole.

At the Westinghouse Electric & Machine Company, East Pittsburgh, Pa., they have some 300 day apprentice pupils and over 700 employees, male and female, from fourteen years up, in their evening classes. There is even a class for retarded pupils, who get a work certificate at fourteen but are weak in their academic work. On inquiry it is found that all this outlay "pays." In Milwaukee, Wisconsin, there are some 6,000 young employees from fourteen to sixteen in compulsory day schools. At first the employers were skeptical about the value of the new law, but after two years' fair trial it has been found to "pay" in increased intelligence for the loss of time while they are at school. It was the same with the metal trades in Cincinnati when they started their voluntary continuation schools for fourteen to eighteen year old employees. After one year's trial the employers found that the loss of a day a week "paid" with those who chose to take advantage of the opportunity.

While in these cases industrial education does not raise wages directly for the group, it prevents possible lowering of wages; it gives stability to the industry and employment; and it offers greater opportunity for better paying jobs in the industry by the development of inherent talents which otherwise would have remained dormant. Incidentally, the community benefits by the reaction upon its ethical life.

Wages Raised by Industrial Education

Owing to our phenominally rapid industrial, commercial and political devolopment we are just now in the midst of a period of transition, not having yet attained to the comparatively stable social conditions of the older European countries. Hence, while it is deplorable and injurious to the community to permit masses of untrained young people filling our factories and workshops, it is nobody's fault in particular that such a condition prevails. They are the earmarks of the pioneer conditions of our industries, just as formerly the burning and wasteful destruction of our forests were the earmarks of our agricultural development. But as we have injured our country by this reckless waste of timber, so we will injure our country if we continue to dump the untrained intelligence and untrained talents of our young people by the millions into the insatiable maw of industrial activity without provision for the conservation of this intelligence and talents; taking the intelligence out of the social soil, put there by generations of efforts, in our own country and in Europe, without putting anything back into the social soil as a fertilizer, as it were, in the form of educational facilities for cultivating the fertile soil to produce continued and better suited crops of national intelligence, to conserve our mental resources as we are beginning to conserve our material resources.

Which Way the Best?

How can we best conserve the mental resources of the millions of semi-skilled and unskilled workers? By the short cut of raising wages artificially by legislative enactment and leave to natural processes the weeding out of those who cannot, for lack of training, come up to the requirements of that artificially set scale of ability? Or shall we go according to, "the longest way around is the shortest way home," and establish a system of continuation schools where all have a chance to show what talents there are in them and thus, in a natural and human way, though perhaps not so popular, but in a way in conformity with our democratic institutions, raise the wage scale in conformity with the requirements of sound competitive business principles?

A check upon greed and exploitation could be established by the creation of an arbitration committee in each factory, or for a group of like occupations, which could work out their own salvation within their own sphere without legislative standards and interference. Only recently the writer visited a silk mill and inquiring into the wages paid and degree of intelligence of the workers, was told that better wages could be paid if the degree of intelligence were higher. Complaint was also made of the inability of obtaining a sufficient number of "gang leaders" of entire absence in the community of opportunity to those who, by some training, might have their talent developed sufficiently to qualify for the purpose.

Which would work better in the long run in such a case, an artificially created minimum wage scale or the natural development of talents and giving it a chance to get to the top? Which way would react more favorably upon the community and business?

Kind of Training for the Unskilled

The question which kind of stimulation for raising wages is preferable, the artificially legislative or the rationally educative, raises the question what kind of education is needed to accomplish the purpose. Not long since the writer conversed with some manufacturers about raising the quality of certain goods. Various means were suggested, all of which terminated in the improvement of some special department. The writer contended that no superlative refinement of any single department would bring the desired result as long as three classes of labor took part in the production. Only the raising of the general intelligence of the whole force would raise the quality. This was admitted and steps were taken towards that end.

The foundation for this general, or as it might also be called, industrial intelligence of the semi-skilled and unskilled, should be laid in the elementary school, and the experiment of prevocational training lately inaugurated in nine public schools of New York; Nos. 62, 64 and 95 in Manhattan; Nos. 5, 158 and 162 in Brooklyn; No. 85 in Queens; No. 45 in the Bronx; No. 1 in Richmond, is in the right direction, and if generally adopted would go far to the solution of the problem. The industrial his-

tory of our own country, with elementary object lessons of our resources, geography and transportation in motion pictures; a review of the various municipal departments and what they do for the city; how the cities have originated and how they have grown, and what the industries had to do with it; public health and why we should keep healthy; and similar subjects, connected with some primary manual work so as to develop their motor activity, will all help to arouse their interest, bring out their dormant talents, and when they go to work they will not be a drag. They will know better what they go into, and will have a better understanding of their work and what it means to them and to others, and why they should take interest in it for their own good and the good of the industry they are working in.

If other nations can do this we ought to be able to do it, unless we are willing to admit that our boys and girls are mentally and physically inferior to the boys and girls of other lands, which is not the case and which no one will admit. If the objection is raised that many of these young people are foreign born or of foreign parents, then again the question could be raised why we should not and could not do to them what their own country could and would do, provided conditions demanded it.

Conclusions

From whatever angle the wage question is surveyed it is seen that wages and industrial education are closely related and interdependent with the skilled semi-skilled and unskilled workers. Wages are not regulated by industrial education. In some European countries industrial education is far superior to ours and relentlessly compulsory besides, yet their wages are lower than ours; but any advancement in wages or position hoped for in industrial life depends on industrial education, and the kind and degree of industrial or technical education. The lack of it lowers the wages of the individual as well as the wage scale of the whole group of workers of the skilled, semi-skilled and unskilled alike, male and female, though the former more than the latter.

Two factors insidiously but powerfully operate to reduce the economic value, industrially, of a system of industrial education which tries to increase the mechanical efficiency of the industrial worker.

One of these factors is the "flat rate" of hourly pay for unskilled workers; paying so much, say fifteen cents per hour, to each member of a group, irrespective of the individual efficiency which may make some of the group twice as valuable as others. Those who "soldier" are rated just as high as the conscientious and industrious ones who, by the "flat rate" are reduced to a lower level and discouraged to do the best they could and would do if value of performance were paid. This same demoralizing principle is frequently applied in clerical and minor positions of responsibility. There the position is paid and not the man. The expansion of the concern, or the inability of the next higher to do the work, or other circumstances often require a given man to do high grade work beyond what was originally contemplated, but the man's pay is not raised, though his work is recognized to be highly satisfactory. But as long as he does not get a higher position his pay remains and, unless he is a very strong-minded man, his ambition and ethical aspect of life are crushed. Often enough an inferior one gets the better paying position because the efficient one is too valuable in his position. This process favors the growth of bureaucracy and mediocrity.

The second factor is the "piece" rate of wages which, after a man has attained a certain circumscribed mechanical efficiency and a minimum of technical knowledge, if any is required, to suit his immediate needs, offers no more inducement for future mental or vocational expansion and development of talent. If he exerts himself and does better, his "piece" rate will be quickly cut down to the "standard" allowance. In my educational work, which I have carried on as a "hobby" and recreation for the last forty-five years, I have been frequently told, on my plea with men for better education of their children; "H'm, what's the use? Neither I nor they would get a cent more for all the knowledge they may have." And I knew well enough that from their narrow standpoint of merely earning a living they were right.

Herein industrial education must attempt to cover a larger field of usefulness than mere manual dexterity training. Instead of making this the aim and end of vocational training, it should make the man's bread and butter interest the nucleus around which to build up a comprehension of the relation of his work to

the success of the industry and the ethical life of the citizen. I know it can be done.

In Bulletin 23, 1914, Whole Number 596, of the United States Bureau of Education at Washington, I find some passages which apply directly to the problem of the relation of industrial education to wages. On Page 50 of the Bulletin, in reference to the Krupp Steel Works at Essen, Prussia, it says: "The apprentices receive their theoretical instruction entirely in the local continuation evening schools. A few years ago, however, the apprenticeship department was organized in an entirely separate building, where about 500 boys, regularly apprenticed to the trade, received instruction in trade processes only. The first two years this department cost the works about 30,000 marks; since that time it has not only paid for itself, but has become a source of revenue."

Page 52. "The entire system, while beneficial to the individual employee and his family, still makes for the good of the company. The man becomes a more efficient producer, and during his period of training, he not only maintains the educational expenses of the institution, but is also a source of revenue. The girl becomes a more efficient home-maker and is able to provide a better living for her husband who is employed in the works than she otherwise could. These conditions make more satisfied employees and tend toward less and less social unrest and dissatisfaction — results vital for the good of such a productive organization."

Now, please, mark the contrast of another passage, on Page 53, in reference to our own country. "An interesting fact brought to light recently in the city of Bridgeport, Conn., through the State employment agent, Mr. Hall, was that a very large percentage of juvenile industrial workers did not even know where the factory was located in which they were to enter upon an occupation, much less the conditions under which they were to be employed. A conference with Mr. Goodrich, of the Bryant Electric Co., in the same city, showed that his greatest loss in manufacturing was due to the falling out of employees who found, after a week or month of trial, that they were not fitted to their employment; *consequently the foreman had to "break in new help," which always entails a great loss in the cost of production.*"

Who is paying for this loss? The consumer, of course. But, if the price of the goods is raised too high, the consumer will not buy, hence wages are kept low to make up for the loss, and labor is punished for lack of training and development of its inborn talents and intelligence.

Granting a minimum wage law is desirable and justifiable; if it is not accompanied by social agencies to prevent that loss in cost of production, then the cost of production is increased by the amount due to incapacity of workers, plus artificial raise of wages through legislative enactment. This raises the price of the product to the point where consumption is curtailed and labor is thrown out of work, or the wage scale is reduced all along the line. Here we have the rubber ball again, forced into too small a box. But if, under these circumstances, the manufacturer is forced to provide for the training of his help exclusively, the cost of production is increased still more and we have moved around a circle.

Hence the significance and value of the educational movement as inaugurated in those nine New York schools, which should be supplemented by a system of continuation schools such as they have at Milwaukee, where the employers pay for the time of his employee in school, while the municipality pays for the teaching and equipment.

While not the only factor, this is one of the main factors of Germany's industrial success. Instead of substituting legislative enactment for inborn and latent talent, she developed that talent through educational agencies and backed that up by relentless compulsion. Instead of raising the wages by law Germany raised the intelligence of the industrial workers by law to the top notch. And if she should be crushed politically, these educational agencies and their results, and the characteristics of the people will remain, and will, in due course of time, assert themselves as before, and even more so because of poverty and privation.

I have the report of a meeting of the German Association of Industrial Teachers. One day was devoted to the discussion and adoption of resolutions how best to teach citizenship in industrial schools. It was not the question whether it should be taught —

that is already settled — but how it should be taught best. From 9 A. M. to 5:30 P. M the minister of commerce, the governor of the province, the mayor of the city, professors, teachers, manufacturers and business men vied with each other to find the best way, and if our people of similar stations in life would have dropped into that meeting they would have imagined them to be socialists. They understand how to correlate and co-ordinate the various educational forces to produce a harmonius and effective result. They do not waste the latent mental resources of the nation, as we do, and then go to the legislature to make up for neglected opportunities simply because we are rich.

STATEMENT OF JOHN A. LAPP

The relationship between industrial education and wages in this country is largely speculative owing to our lack of exact information for any considerable number of people. Statistics have been gathered for certain groups and the value of industrial education in increasing their wages has been demonstrated. In most cases, however, the persons in these groups are selected and cannot be taken as a guide for the whole country, nor even for the whole mass of workers in their particular occupations.

In the present state of industrial education a little training goes a long way and it would be expected that a few selected individuals through training would receive great advantages among the great mass of totally untrained persons. When we attack the problem of training all people for greater efficiency and for better wages, we must bear these facts in mind. Many industries offer the chance for persons who are ambitious to rise to more skilled positions and to better pay. Many other occupations offer no such opportunities and after a slight training and a little practice in certain processes, the worker becomes as skilled as he can expect to be in that particular occupation. Probably no amount of training would make it possible for any considerable number of such persons to receive a better wage and for the great mass of workers in such occupations there is no very definite connection between industrial education and wages.

Not so, however, with the great mass of youth who are entering employment. While industrial education may not be able to advance the grown worker very much in automatic callings, it can be made to minister to the wants of the youth who is just beginning and whose mind and faculties are open to training which will give him greater opportunities to enter occupations requiring more skill and having greater opportunities for advancement.

Industrial education will also reach the great mass of youth entering upon industrial work and train them in processes which may lead to more skilled work in other employments if the particular work in which they are engaging does not present vocational advantages. By this process wages will be gradually raised because a greater and greater proportion of youth would be directed into skilled occupations and consequently a smaller number left for the automatic employment. A complete system of universal education adjusted to the needs of all children would go far, in my estimation, towards correcting low wages in such employments as candy making and department store work in which the majority of persons take work simply because they are not qualified to do anything better.

As an immediate relief from the demoralizing effect of low wages, I do not believe industrial education can be effective. Nothing but the fiat of law can prevent the merciless competition of the unskilled which has driven wages below the living standard. As a permanent corrective, however, I believe industrial education will go far. Most of all it will do this: It will open opportunities for youth in every occupation to make the most of his capabilities. The automatic blind alley job, is the cause of most industrial unrest. Give the boy or the man the hope of a better future, and he has a permanent interest in the social welfare. Close up the opportunities and the pent up social forces will find a way out in explosive fashion.

STATEMENT OF JAMES P. MUNROE

It seems to me that the enactment of legislation prescribing a minimum wage will almost inevitably result in throwing upon organized or unorganized philanthrophy a large number of

women and minors, as well as a considerable number of men, now contributing in some degree to their own support. To do this would not relieve the labor situation and would double the difficulties already surrounding poor relief and the problems of public morals.

The question of the living wage is too complex to be dealt with by hard and fast legislation. In the transition from hand processes to machine processes in industry there must always be a period when it is cheaper — or is believed to be cheaper — to have certain automatic or mechanical processes performed by hand than by a machine. To insure this cheapness, however, wages must be kept low; and, since these processes require no brains and almost no dexterity, they are the refuge of vast numbers of persons (mainly women and minors), who have neither the mind nor the skill to perform the better paid services in commerce and in industry. Until such time as the number of such persons can, by education or other forms of social stimulation, be reduced, it is better, in my opinion, for them to earn some wage — inadequate though it may be — than to become, directly or indirectly, burdens upon their more able or better educated fellow citizens.

Since, however, this problem of the underpaid is perhaps the most serious and far-reaching among those confronting organized society, all persons concerned in education should give it immediate and exhaustive study. It cannot be solved, in any large degree, by the ordinary schemes for vocational education, for there is practically no "technique" of these automatic processes, and the speed attainable by the operator is limited by that of the machine which he tends or feeds. Therefore, the education given to such a worker must be, not technical, but personal. It must seek, first, to overcome as far as may be the defects of heredity, environment or education which have placed the individual in the ranks of the unskilled; second, to give him such inner or outer stimulus as may offset in some measure the deadening effects of a monotonous occupation pursued day after day; and third, to arouse, if possible, ambition to enter, by acquiring the necessary skill, some higher occupation giving a living wage.

It is my belief that much more could be done than is done, before the age of fourteen, to keep these less gifted individuals from falling into the unskilled class, and, after that age, to lift them out of that class into at least the level of the semi-skilled.

Education — using the term broadly — has at least two other opportunities in this connection; the opportunity, first, of educating public opinion so that it shall refuse to buy the cheap and shoddy stuff which, as a rule, is the product of labor that fails to receive a living wage; and, secondly, of giving such a training, in the schools and elsewhere, as shall educate us out of our present ignorance, waste and extravagance in household management. In doing the first thing, education would markedly benefit both producer and consumer; in doing the second, it would substantially increase the purchasing power of wages which, measured by the present extravagant standards of American waste, are now grossly inadequate. The wages question is one not merely of sufficient pay, but also of intelligent spending.

There still remains the seemingly insoluble question as to what is to be done with the relatively enormous number of fairly intelligent women and minors who enter industry with no thought and no need of securing a full living wage. They take up unskilled work, more or less fitfully, with a view either to augmenting the family income or to securing additional spending money for themselves. They are a potent factor in depressing the wage scale, and any minimum wage law would tend to drive them out of the labor market. In doing so, however, a great group of one of our best types of family would be reduced, either from comfort to a bare subsistence, or from a bare subsistence to distressing and destructive penury.

STATEMENT OF H. B. R. SCHEEL

Our educational scheme has been in operation something less than three years, and we have no graduates as yet. We, therefore, have available no data on earnings or relative efficiency of graduates compared with those not specially trained.

As far as the work has gone, however, we believe that the young men taking the co-operative course in the high school will be worth more to themselves and to their employers — that is, to us and to other manufacturers — than if they had not undertaken the industrial course.

STATEMENT OF ALBERT SHIELS

Except in hazardous or exhausting forms of unskilled labor, it is a fact that competition is greatest in the ranks of the unskilled, and that wages increase as a greater skill is required of the worker.

Nevertheless, even in the skilled trades there are numbers of poorly trained workers. If the labor market be well organized, they may receive the full rate of pay, but such workers are the first to be dismissed during a slack season.

The problem of industrial training is, therefore, two-fold: First. To prepare young people for vocational activities according to their abilities. Second. To train those who are already wage-earners to become more competent workers with increased earning ability.

1. Concerning the first problem much has been written though comparatively little has been done. In a democracy it is difficult to train boys and girls for particular occupations, for their choice is not determined by the school; and the father's trade influences a son's choice but little. To provide for the future earning ability of pupils, there are three methods of procedure. Children should have a sound, general elementary course, even if legislation be necessary to insure the completion of the course. They should learn in the last years at school some facts concerning the immediate and ultimate wage-promise of various occupations, and they should receive some suggestion as to their own aptitudes and abilities as the instructor has observed them. Finally, their manual work should be sufficiently varied to include experience in a variety of occupations; e. g., metal, wood and electrical work. But it must be realized that there is no way of preparing a journeyman worker in an elementary school. Even were the

pupil old enough, actual shop experience would be necessary to supplement school experience.

2. The second problem is more easy of solution and has an immediate relation to wages. It concerns the fuller training of that large group of workers who are in the trades, yet not of them, who have begun in a haphazard way to get a trade experience, and yet can make little progress because they know little and have no opportunity of learning more. It concerns, too, that large army of imperfectly trained workers, who lack thorough familiarity with their occupations, and who, as they are the last to get jobs, are as well the first to lose them. In many cases these two groups are not as successful as their better equipped fellows because their knowledge is slight and their skill limited. They need the training that means opportunity. That training, it may be added, does not necessarily involve an expensive system of instruction. As illustrations of handicaps which prevent operatives from earning what they might, we may recall machinists who know only how to manage single types of machinery; printers who lack knowledge of elementary composition and spelling; pattern makers who read blue-prints imperfectly. Proper training is not difficult; the lack of it means economic loss.

Apprentice and corporation schools are developing their own schools. A public system of instruction, open to all workers, inspires greater confidence, at least among workers, than does a private enterprise. Public industrial instruction must bear an immediate relation to wage-earning power. Its development must be broad and varied enough to meet the needs of all classes of workers. A public system should, therefore, provide for:

1. Evening classes.
2. Afternoon continuation classes in schools.
3. School classes in shops.
4. Co-operative methods of half-time (shop and school instruction for workers).

The greatest need at this time is a more enlightened attitude among employers. One New York employer allowed the schools to instruct his illiterate operatives in working hours without loss of pay. The result was that these workers not only increased their own earning power but actually netted a profit.

If this interest in the training of employees were general, the results would be reflected not only in the production of better trained and better paid men, but of a better product as well.

STATEMENT OF J. G. SPOFFORD

The scale of wages for apprentices in this school on the co-operative basis, i. e., where they work in the shop one week and attend the school the following week, is nine cents per hour for the first year, eleven and one-quarter cents for the second year, fourteen and one-quarter cents for the third year and sixteen cents for the fourth year.

The pupils receive full credit on their apprenticeship for the time they are in the school; i. e., the pupils attend the school thirty-five hours per week but receive a full week's credit at the industry or forty-eight hours credit for the thirty-five hours attendance.

I should state that a minimum wage for a pupil who had faithfully attended a school of this type, should be not less than twenty-five cents per hour and usually would recommend a scale from thirty to thirty-seven cents per hour as soon as the period of apprenticeship is completed.

This, however, would depend upon the ability of the boy to make good in the industry. I would also recommend that for schools running on the full time basis; i. e., where a pupil attends this school and receives shop instruction within the school, under competent mechanics, that such pupils should receive fifty per cent. credit on their apprenticeship for the time put in in the school; i. e., should a pupil attend the school on the full time basis for a period of two years, I would recommend that he be given credit for one year on his apprenticeship.

STATEMENT OF MARY SCHENCK WOOLMAN

I thoroughly believe in the minimum wage for women. It will render industrial education even more necessary. Women's wages are low for many reasons among which are the following: 1. As most of the women are untrained they crowd into the un-

skilled industries or the unskilled parts of skilled industries and lower wages, as the demand is less than the supply. 2. They do not work well enough to deserve good wages as they are untrained.

In preparing (1902) to organize the Manhattan Trade School for Girls in New York, I studied the occupations of women and the wages made by them. After the school was running we followed up all who left the school to know the wages received and the result of the training. I can positively state that the right kind of industrial education for women will result in higher wages for them than they would receive as unskilled workers. The wages are raised because the trained worker is doing a higher class job, because she is more continuously employed than the untrained worker. The trained worker can secure a position more readily and does not drift from place to place as the unskilled one does. In slack seasons the unskilled worker is the first to be dropped. As you know, the unskilled (fourteen to fifteen years of age) enter the market with a wage of $2.50 to $3. The following is the Manhattan Trade School record. The girls enter the school from fourteen to sixteen years of age and remain from six months to a year:

Manhattan Trade School, 1912–1913 —
67 per cent. of the girls were placed at $5.
20 per cent. of the girls were placed at $6.
6 per cent. of the girls were placed at $7 or above.
7 per cent. at less than $5.

After three years in the market untrained workers usually rise to $5 or $6, but the trained worker has frequently risen to $16, and larger salaries are reported.

As I shall not be in Boston for some time and have not my records with me, I would advise you to write to Mrs. Prince, Director of the Salesmanship Classes, 264 Boyleston street, Boston, Mass. She has the exact data of the effect in the wage of girls trained for salesmanship. Miss Hildreth, Director of the Worcester, Mass., Trade School, can give you the advance there though the school is but a few years old. The Boston Trade School has also followed up its graduates and Miss Leadbetter,

the principal, can show the good effect of training on the wage scale of the worker with training.

Industrial education for girls will only succeed if it is in close relation to the skilled trades of the locality (which are taught in the school) and also carefully working for the best interests of labor. It is not sufficient to teach the trades only, for industrial intelligence is needed by the worker in order to rise. This can be gained through a study of the history of industry, labor conditions, arithmetic of the trade, the design required in specific occupations and the duties of citizenship. The teachers must have ample experience in the trades they are teaching, but also ability to instruct and should have a lively interest in industrial education.

5. NEW YORK STATE FACTORY INVESTIGATING COMMISSION

Public Hearing, Monday, May 18, 1914, at 10:30 a. m.

ALDERMANIC CHAMBER, CITY HALL, NEW YORK CITY

To Consider to What Extent There is a Duplication of Inspection of Manufacturing and Mercantile Establishments, in New York City, by Different City and State Departments, and What Remedies, if any, Shall Be Adopted Therefor.

Shortly after the creation of the Factory Commission in 1911, the question of duplication of inspections in New York City was fully discussed before it, and the question of a remedy received careful consideration. In that year the Commission issued a questionnaire which, among others, contained the following questions:

JURISDICTION OVER FACTORIES AND MANUFACTURING ESTABLISHMENTS IN NEW YORK CITY

1. Should there be a Department of Labor for the city of New York and one for the rest of the State?

2. Should there be a Bureau of Inspection established whose function it shall be to inspect factories and manufacturing establishments and report existing conditions to the different departments charged with the duty of enforcing the provisions of the law on the subject; the Bureau of Inspection to report the facts to the responsible department, the latter to secure compliance with the provisions of the law applicable to the condition reported?

3. Should there be a new department established for the city of New York to have exclusive jurisdiction over all factories and manufacturing establishments other than those carried on in tenement houses (the new department to possess all the powers which are now held by the State Labor Department in the city of New York, the Building, Fire and

Health Departments of the city with reference to factories and manufacturing establishments)?

4. What bureaus should be established in such new department:

5. What suggestions have you tending to lessen or do away with the duplication of inspections in the city of New York by various city and State departments?

6. What other suggestions have you which would tend to centralize the authority and responsibility for the enforcement of the laws relating to factories and manufacturing establishments in the city of New York?

In response to this questionnaire we received various written statements and we held a number of public hearings at which this subject was discussed. Practically all those who appeared before the Commission in person or who submitted written statements, were opposed to the establishment of a Board of Inspection, as suggested by question 2, or the establishment of a new Department, as suggested by question 3. Among them were Seth Low, Robert W. De Forest, Raymond B. Fosdick, Tenement House Commissioner Murphy, Lawrence Veiller, Samuel McCune Lindsay and others.

It has lately been urged — as though it were a proposition suggested for the first time — that there should be a separate Bureau or Board of Inspection for all the departments making inspections in New York City exactly along the lines of questions 2 and 3 above stated. It may be that conditions have changed in the three years so that it is possible now to create one Bureau, which no one thought practical at that time.

In order that the public interested may be fully heard on the subject and that the Commission, if it is advisable, may recommend some change in method, it has been decided to hold a public hearing upon the subject.

The questions before outlined will be considered, and in addition the following question will be taken up:

7. Shall there be a permanent conference board of the heads of city and State departments making inspections of buildings in New York City, which shall meet at regular in-

tervals, the object of which shall be to reduce by working agreement the multiplicity of inspections, so far as that is possible and desirable, and to prevent the issuance of conflicting orders against the same premises?

It has frequently been stated that in many instances conflicting orders as to the same identical work have been issued by different departments of the city of State. The Commission would like to have specific instances of this, so as to ascertain where the fault lies, and requests that this information be sent as early as possible to its office, at 170 Broadway, New York City.

Everyone interested in this matter is invited to attend the public hearing and to present his views on the subject under consideration.

INFORMAL CONFERENCE CALLED BY NEW YORK STATE FACTORY INVESTIGATING COMMISSION, MAY 27, 1914

To Consider What Legislation, if any, is Required and What Other Action Shall Be Taken with Reference to the Inspections of Buildings in New York City by Different City and State Departments.

So that you may consider in advance some of the subjects to be discussed the following are submitted:

QUESTIONS SUBMITTED FOR CONSIDERATION

1. Shall the Fire Prevention Bureau be given complete jurisdiction over all matters relating to the fire hazard in factory buildings in New York City?

(*At present this jurisdiction is divided between the State Labor Department and the Fire Department, the former having jurisdiction over exit facilities, the latter having jurisdiction over five prevention and fire extinguishing apparatus.*)

2. Shall the fire department be given jurisdiction over the inspection of boilers in all buildings?

(*At present this work is done by the Bureau of Boiler Inspection of the Police Department.*)

3. Shall the Bureau of Buildings be made a bureau of the fire department instead of a bureau of the borough president's office?

4. If number 3 is not advisable, what shall be done to do away with the conflicting requirements, if any (particularly for new building and alteration plans), of the Bureau of Buildings, the Fire Department and State Labor Department?

5. Shall there be a permanent public welfare council authorized by the Legislature, made up of the heads of the city and State departments, which inspect buildings in New York City, to meet periodically and to confer on the requirements of the different departments so as to avoid conflicting orders, etc.?

TENTATIVE PLAN

SUBMITTED BY THE NEW YORK STATE FACTORY INVESTIGATING COMMISSION WITH REFERENCE TO THE INSPECTION OF BUILDINGS IN NEW YORK CITY BY DIFFERENT CITY AND STATE DEPARTMENTS

Create a new department for the City of New York to be known as the Department of Buildings, the head of which shall be the Commissioner of Buildings who shall be appointed by the Mayor. The jurisdiction of this department shall extend over the entire city.

The Department of Buildings shall have sole and exclusive jurisdiction over the construction and alteration of all buildings and any structural changes therein (including factories and mercantile establishments). There shall also be concentrated in this new department, so far as practicable, jurisdiction over matters relating to the proper maintenance of these buildings.

This will involve the consolidation of the following departments and bureaus and the transfer of their entire jurisdiction to the new Department of Buildings.

1. The Bureau of Buildings of each borough.
2. The Tenement House Department.
3. Bureau of Fire Prevention of the Fire Department.
4. Bureau of Boiler Inspection of the Police Department.

There shall also be transferred to this new Department of Buildings the jurisdiction now exercised by different city and State departments as follows:

5. State Department of Labor — in so far as it relates to the construction and alteration of factory buildings and mercantile establishments and any structural changes therein.
6. Health Department of New York City — in so far as it relates to structural changes in bakeries and food product manufactories.
7. Department of Water Supply, Gas and Electricity — in so far as it relates to the inspection of electrical wiring and equipment in buildings.

This proposed plan concentrates in one department control over all matters relating to the construction of new buildings and alterations of existing buildings and does away with needless multiplicity of inspections so far as the maintenance of those buildings is concerned. It covers all buildings and industrial establishments, including factories, mercantile establishments, tenement houses, etc. Plans for construction and alteration of buildings need be filed with this department only. The separate building bureaus for each borough are to be consolidated into this one department to cover the entire city.

No attempt has been made in this brief outline to describe with any detail, how the proposed Department of Buildings is to be organized. These details may be readily furnished as soon as the general plan has been decided upon.

NOTE: This plan does not involve the creation of an additional city department. It simply provides for consolidating several existing departments and bureaus in one new department.

Dated New York, August 3, 1914.

FIRST DRAFT OF A TENTATIVE BILL

PREFACE

The following is the first draft of a tentative bill for the consolidation of departments and bureaus having jurisdiction over the construction and alteration of buildings in New York city. This draft embodies in concrete bill form the proposals outlined in the tentative plan submitted by the Commission last August, which may be briefly summarized as follows:

"Create a new department for the city of New York to be known as the department of buildings, the head of which shall be the commissioner of buildings who shall be appointed by the mayor. The jurisdiction of this department shall extend over the entire city.

"The department of buildings shall have sole and exclusive jurisdiction over the construction and alteration of all buildings and any structural changes therein (including factories and mercantile establishments). There shall also be concentrated in this new department, so far as practicable, jurisdiction over matters relating to the proper maintenance of these buildings.

"This will involve the consolidation of the following departments and bureaus and the transfer of their entire jurisdiction to the new department of buildings.

"1. The bureau of buildings of each borough.

"2. The tenement house department.

"3. Bureau of fire prevention of the fire department.

"4. Bureau of boiler inspection of the police department.

"There shall also be transferred to this new department of buildings the jurisdiction now exercised by different city and state departments as follows:

"5. State department of labor — in so far as it relates to the construction and alteration of factory buildings and mercantile establishments and any structural changes therein.

"6. Health department of New York city — in so far as it relates to structural changes in bakeries and food product manufactories.

"7. Department of water supply, gas and electricity — in so far as it relates to the inspection of electrical wiring and equipment in buildings."

We have not included in this draft the amendments to and repeal of existing provisions of the charter and other laws, necessitated by the proposed consolidation of departments. Those will of course be taken care of.

It is probable also that an amendment to the charter will be necessary to provide for complete co-operation between the new Department of Buildings and the Division of Fire Marshal, which under the plan, is to remain in the fire department.

The suggestion has been made that there should be transferred to the new department, the jurisdiction now exercised by the Borough President for the granting of vault permits. That has not been incorporated in the tentative bill, but is submitted for consideration. The Commission has not approved this tentative draft in form or in substance, and it is issued solely for the purpose of obtaining criticisms and suggestions from those interested.

NOTE.— *The tentative bill covers the consolidation of all of the departments and bureaus outlined in the plan previously submitted by the Commission. If it is proposed to omit any department from that plan, for example, the Tenement House Department, the tentative bill may readily be changed accordingly.*

Dated New York, *November* 2, 1914.

AN ACT

To amend the Greater New York charter, in relation to creating a building department and prescribing its powers and duties; creating a board of standards and appeals and prescribing its powers and duties and amending or repealing certain provisions affected or superseded by this act.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended by inserting therein a new chapter, to be chapter nineteen-a thereof, to read as follows:

CHAPTER XIX-A.

DEPARTMENT OF BUILDINGS; BOARD OF STANDARDS AND APPEALS.

Title 1. Organization and jurisdiction of department of buildings.
2. Orders of department of buildings; actions and proceedings.
3. Board of standards and appeals.
4. Tenement house provisions.
5. General provisions.

TITLE 1.

ORGANIZATION AND JURISDICTION OF DEPARTMENT OF BUILDINGS.

Section 1. Definitions.
2. Department of buildings; commissioner of buildings.
3. Deputies; secretary; chief inspectors.
4. Inspectors and other subordinates.
5. Bureaus.
6. Offices.
7. Seal; judicial notice.
8. Uniforms and badges.
9. Officers and employees forbidden to engage in certain occupations, trades or business.
10. Gratuities.

11. Punishment of employees.
12. Falsely personating an officer.
13. Soliciting or receiving bribes.
14. Liability for official acts.
15. Rules and regulations.
16. Taking proof and testimony.
17. Right of entry.
18. Co-operation of other departments.
19. Annual report.
20. Jurisdiction of department.

Section 1. **Definitions.** As used in this chapter: 1. The term "department" means the department of buildings;

2. The term "commissioner" means the commissioner of buildings;

3. The term "tenement house" means a tenement house as defined by the tenement house law;

4. The terms "factory," "factory building" and "mercantile establishment" mean a factory, factory building or mercantile establishment, as defined by the labor law.

§ 2. **Department of buildings; commissioner of buildings.** There is hereby established a department of buildings with jurisdiction throughout the city. The head of the department shall be the commissioner of buildings. He shall be appointed by the mayor for a term to expire with the term of the mayor by whom he shall have been appointed. The salary of the commissioner of buildings shall be ..... thousand dollars a year.

§ 3. **Deputies; secretary; chief inspectors.** The commissioner of buildings shall appoint two deputies, one of whom must be an architect, builder or engineer of at least ten years' experience. The salary of each of such deputies shall be ..... thousand dollars a year. The commissioner shall appoint a secretary whose salary shall be ..... thousand dollars a year. He shall also appoint a chief inspector of buildings for each borough, who shall be an architect, builder or engineer of at least five years' experience, and be in charge of the branch office of the department established in the borough for which he shall have been appointed. The salary of each chief inspector of buildings shall be ..... thousand dollars a year.

§ 4. **Inspectors and other subordinates.** The commissioner of buildings may also, subject to the civil service law, appoint and

remove inspectors and such other officers and employees as may be needed. The officers and employees of the department shall be subject to the supervision and control of the commissioner and perform such duties as are assigned to them. (See §§ 406, 1329, charter.)

§ 5. **Bureaus.** The commissioner of buildings may establish in the department such bureaus and divisions as he deems advisable. The bureaus or divisions now established in the fire department having jurisdiction of fire prevention, and the bureaus or divisions in the tenement house department, the functions and duties of which are transferred by this chapter to the department of buildings, shall continue as bureaus or divisions of the department of buildings until otherwise provided by the commissioner of buildings.

(Should this bill outline the bureaus of the department or should the head of the department be given the wide discretion conferred by this section? Should the minimum number of inspectors, etc., be specified or left to the board of estimate and the head of the department?)

§ 6. **Offices.** The central office of the department shall be in the borough of Manhattan. There shall be a branch office of the department in each other borough.

§ 7. **Seal; judicial notice.** The commissioner may adopt a seal for the department and cause the same to be used in the authentication of its orders and proceedings and for such other purposes as he may prescribe. The court shall take judicial notice of such seal and of the signatures of the commissioner and deputy commissioners of the department. (See § 1332, charter.)

§ 8. **Uniforms and badges.** The commissioner shall adopt a suitable uniform to be worn by inspectors of the department. He may also provide a metallic badge, with a suitable inscription, and require it to be worn by the inspectors and officers of the department. (See § 1335, charter.)

§ 9. **Officers and employees forbidden to engage in certain occupations, trades or business.** An officer or employee of the department shall not engage as principal, agent, employee or stockholder in the business of an architect, civil engineer, carpenter, plumber, iron worker, mason or builder, or in the manufacture or sale of articles used in the construction of buildings, automatic sprinklers or fire extinguishing, fire protection or fire prevention devices. (See § 406, charter.)

§ 10. **Gratuities.** An officer or employee of the department shall not, directly or indirectly, in addition to his regular salary or compensation, receive for his own benefit any present, gift or emolument for services affecting the work of the department, rendered by himself, by the department, or an officer or employee thereof.

§ 11. **Punishment of employees.** The commissioner of buildings may punish any employee, for neglect of duty, or omission to properly perform his duty, for violation of rules or regulations, or neglect or disobedience of orders, or incapacity, or absence without leave, by forfeiting and withholding pay for a specified time, or by suspension from duty, with or without pay, not exceeding thirty days. (See §§ 406, 1331, charter.)

§ 12. **Falsely personating an officer.** Any person, not an officer, inspector or employee of the department, or acting under its authority, who falsely represents himself as such, or who uses or, without authority, wears or displays a shield or other insignia or emblem such as is worn by such an officer, inspector or employee, shall be guilty of a misdemeanor. (See § 1344-g, charter.)

§ 13. **Soliciting or receiving bribes.** An officer or employee of the department or a police officer detailed thereto, who shall ask, solicit, accept or receive any money or other compensation for enforcing, modifying or changing any order, rule or regulation of the department, shall be guilty of a felony. (See § 406, charter.)

§ 14. **Liability for official acts.** An officer or employee of the department shall not be liable for any act done or omitted in good faith and with ordinary discretion, within the scope of his official duties, in executing the provisions of this chapter. If property be unjustly or illegally destroyed or injured by such act or omission for which no such liability exists on the part of such officer or employee, an action may be maintained against the city for the recovery of actual damages by the person aggrieved. (See § 1344-a, charter.)

§ 15. **Rules and regulations.** The commissioner of buildings may make, amend or repeal administrative rules and regulations for the conduct of business, and the duties and discipline of the subordinates in the department of buildings. (See § 406, charter.)

§ 16. **Taking proof and testimony.** The commissioner of buildings, a deputy commissioner, or such other person as the commissioner may designate, may take proof and testimony in relation to any matter arising in connection with the performance of any

of the duties of the department of buildings, and for such purpose shall have all the powers of a person authorized to take and hear testimony, as provided by section eight hundred and forty-three of the civil code, and of a person authorized by law to hear, try and determine a matter in relation to which proof may be taken, as provided in section eight hundred and fifty-four of the civil code. (See § 1337, charter.)

§ 17. **Right of entry.** A commissioner, a deputy commissioner, a chief inspector, an inspector, or an authorized employee of the department may enter, examine and inspect a building, structure, enclosure, vessel, place or premises, or part thereof, or thing therein or attached thereto, at any reasonable hour, but between sunset and sunrise, such entry shall not be made by a person other than the commissioner, a deputy commissioner or a chief inspector, without a written permit of the commissioner, a deputy commissioner or chief inspector specifying the reasons therefor, which permit shall be first exhibited to and a copy served upon the occupant if any, of the building, structure, enclosure, vessel, place or premises or part thereof, to be entered and examined. (See § 1344-c, charter, and § 775 as amended by chapter 459, Laws of 1914.)

§ 18. **Co-operation of other departments.** Each department, board, body and officer of the city shall furnish to the department such information, reports and assistance as may be required. (See § 1344-m, charter.)

§ 19. **Annual report.** The commissioner of buildings shall, prior to the first day of March, make an annual report to the mayor of the operations of the department for the year ending on the preceding thirty-first day of December. A copy shall be delivered to the supervisor of the city record and be published in full and in pamphlet form. (See § 1333, charter.)

§ 20. **Jurisdiction of department.** The department shall within the city have exclusive jurisdiction and control of:

1. The construction, alteration and removal of all buildings and other structures, completed or in the course of construction, except water front property, bridges, tunnels, subways and buildings and structures appurtenant thereto, and the enforcement of laws and ordinances in respect thereof. (See § 406, charter and building code.)

2. The enforcement of the provisions of the labor law in respect of the construction or changes in the construction of factories, factory buildings and mercantile establishments and the adequacy

of exit therefrom and the limitation of the number of occupants therein. (See Labor Law, § 79, et seq.)

3. The enforcement of the tenement house law, the prevention of encumbrances on fire escapes upon tenement houses, and the lighting and ventilation of tenement houses, and the premises connected therewith. (See §§ 1340–1341, charter.)

4. The installation, inspection and approval of all gas and electric equipment, apparatus and appliances placed in any building or structure, to the extent that such jurisdiction and control is conferred by statute or ordinance upon the department of water supply, gas and electricity, but not including the installation, inspection and testing of gas and electric meters, and the enforcement of such statutes and ordinances. (See §§ 469, 519, charter.)

5. Structural changes in bakeries, confectioneries and food product manufactories to the extent that jurisdiction and control to order such changes is conferred by statute or by ordinance upon the health department and the enforcement of such statutes and ordinances. (See Labor Law, article VIII.)

6. The inspection, testing and issuance of license certificates for steam boilers, and the issuance of certificates of qualification for the care and control of steam boilers, to the extent that jurisdiction and control thereof is conferred by statute or ordinance upon the police department and the enforcement of such statutes and ordinances. (See §§ 342, 343, charter and Laws 1901, chapter 733.)

7. The enforcement of all laws and ordinances in respect of:

a. The prevention of fires and danger to and loss of life and property therefrom.

b. The storage, sale, transportation or use of combustibles, chemicals and explosives.

c. The installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment.

d. The means and adequacy of exit in case of fire in and from all buildings, structures, enclosures, vessels,* places and premises in which numbers of persons work, live or congregate, from time to time, for any purpose. (See § 774, charter, as amended by L. 1914, ch. 459.)

8. The enforcement of the rules and regulations of the board of standards and appeals.

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* Jurisdiction over vessels might properly be retained by the Fire Department. In this first draft practically the entire jurisdiction of the Bureau of Fire Prevention except the Division of Fire Marshal has been transferred to the new department.

(What provision, if any, should be made for possible conflict of jurisdiction?)

TITLE 2.

ORDERS OF DEPARTMENT OF BUILDINGS; ACTIONS AND PROCEEDINGS.

Section 21. Orders of commissioner.
22. Department orders and notices; service.
23. Transmitting orders and notices to owners.
24. Enforcement of orders.
25. Lien for expense of executing orders; enforcement.
26. Personal liability for expenses.
27. Expenses lien on rents.
28. Suit for expenses; contribution.
29. Records of the department; searches.
30. Violation of orders; penalty.
31. Actions and proceedings to be brought in the name of the department; penalties.
32. Suits to abate nuisances.
33. Injunction, when to be granted against the department.

§ 21. **Orders of commissioner.** The commissioner of buildings shall: 1. Order the alteration, repair or equipment of a building or structure or part thereof, to conform to a statute, ordinance, rule or regulation;

2. Order the destruction or removal of a building or structure which by reason of structural defects is, in his judgment, dangerous to life;

3. Declare a tenement house, or a building, structure, excavation, business, trade, matter or thing in or about a tenement house or the lot on which it is situated, or the plumbing, sewerage, drainage, lighting or ventilation thereof, which, in the opinion of the commissioner is in condition or effect dangerous or detrimental to life or health, to be a public nuisance to the extent he may specify, and order the same to be removed, abated, suspended, altered, improved or purified as specified in the order;

4. Order vacated a tenement house or any part thereof infected with contagious disease;

5. Order the remedying of any condition in, or about any building, structure, enclosure, vessel, place or premises, in violation of law or ordinance or rule or regulation in respect of fire or of the prevention of fires;

6. Order the installation as prescribed by law or ordinance or by rule or regulation in any building, structure, enclosure, vessel, place or premises of automatic or other fire alarm systems or fire extinguishing equipment, and the maintenance and repair thereof; or the construction as so prescribed of adequate and safe means of exit from a building, structure, enclosure, vessel, place or premises;

7. Order any building, structure, enclosure, vessel, place or premises which, in the opinion of the commissioner, is inadequately protected against fire perils, to be vacated or be condemned or removed;

8. Declare a building, structure, enclosure, vessel, place or premises, which by reason of the nature or condition of its contents or its use or the overcrowding at any time of persons therein, or defect in its construction, or deficiencies in the fire alarm or fire extinguishing equipment as may be required for on or in such building, structure, enclosure, vessel, place or premises by law or ordinance or rule or regulation, is perilous to life or property in, against, therein, thereon or adjacent thereto, to be a public nuisance, to the extent that he may specify, and order the same abated. (See § 776, charter, as amended by chapter 458, Laws 1914.)

9. Order a vessel moored to or anchored near a dock or pier in the city to be removed to and secured at such place in the harbor as shall be designated by the commissioner, if such vessel be on fire or in danger of catching fire or if by reason of its condition or the nature of its cargo a menace to shipping or to property on the water front of the city.

10. The commissioner of buildings shall also have power to issue an order in respect of any subject or matter jurisdiction whereof is conferred by statute, ordinance, rule or regulation, upon the department of buildings.

§ 22. **Department orders and notices; service.** Orders and notices shall be in the name of the department of buildings, executed by the commissioner, a deputy commissioner, or chief inspector, and addressed to the owner, lessee or occupant of the building, structure, enclosure, vessel, place or premises affected thereby, if known, and otherwise the premises shall be described in the order so as to be readily identified. Service of the order may be made by delivery of a copy to an owner or a lessee or to a person of suitable age and discretion in charge, or apparently in

charge of the building, structure, enclosure, vessel, place or premises, or if no person be found in charge thereof, by affixing a copy of such order conspicuously thereon. (See § 775, charter.)

§ 23. **Transmitting orders and notices to owners.** If an order or notice of the department be served upon or given to a lessee or person in possession or charge of the building, structure, enclosure, vessel, place or premises therein described, such person shall give immediate notice to the owner or agent thereof, if the same be known to him personally, if such owner or agent be within the limits of the city of New York and his residence be known to such person; and if such owner or agent be not within such city, then by depositing a copy of such order or notice in any post office in the city, properly enclosed and addressed to such owner or agent at his place of residence, if known, postage prepaid. If a lessee or person in possession or charge as aforesaid neglect to give such notice as herein provided, he shall be personally liable to the owner or owners of such building or premises for damages he or they sustain by reason of such neglect. (See § 778-a, charter, as added by chapter 899, Laws 1911.)

§ 24. **Enforcement of orders.** Where an emergency exists constituting an imminent peril to life or health, the order of the department may require immediate compliance therewith. If the order be not so complied with to the satisfaction of the commissioner, the commissioner may forthwith execute such order with the employees and equipment of the department, or otherwise, as the commissioner directs. In any other case, if an owner or lessee served with an order of the department refuse or neglect to comply therewith within the time specified in the order, or within such extended time as the commissioner may allow, the commissioner may apply to the supreme court at a special term, without notice, for an order either authorizing the commissioner to execute the order of the department with its own employees and equipment or otherwise as the commissioner may direct, or for an order of the court directing the commissioner to vacate the building or premises affected by the order of the department, or so much thereof as he may deem necessary, and prohibiting and enjoining all persons from using or occupying the same for any purpose until such measures are taken as may be required by the order of the department. The court may, however, instead of proceeding summarily grant a hearing to the person affected, upon order to show cause. If premises be vacated,

pursuant to this section, the commissioner, when satisfied that the order of the department has been complied with or that the necessity for the premises remaining vacant no longer exists, may declare the order of the department no longer operative and permit the reoccupation of such premises. (See charter, § 778, as added by chapter 899, L. 1911.)

§ 25. **Lien for expense of executing orders; enforcement.** The city shall have a lien for the expenses necessarily incurred by the department in the execution of an order thereof, which lien shall be upon the real property in respect to which the expenses shall have been incurred and shall have priority over all other liens or incumbrances except taxes and assessments. No such lien shall be valid until a notice containing the particulars required to be stated in a mechanic's lien and that the expenses had been incurred pursuant to an order of the department and the date of such order shall have been filed, entered and indexed in the office of the county clerk as in the case of a mechanic's lien. Such notice when filed shall have the same force and effect as a notice of mechanic's lien. All proceedings with reference to the enforcement and discharge of such lien shall be followed as provided by law for a mechanic's lien and with the same effect. Unless proceedings to discharge the lien be commenced within six months after actual notice of the filing thereof by the party against whose property a lien is filed, the filing shall as to all persons having such notice become conclusive evidence that the amount claimed in the statement is due and a lien upon the property. Such lien shall continue for a period of four years from the time of filing unless sooner discharged. If within said period proceedings be commenced to enforce the lien, it shall remain a lien until the final termination thereof.

§ 26. **Personal liability for expenses.** The expense of executing an order of the department shall also be a joint and several charge against each of the owners or part owners and each of the lessees and occupants of the building, structure, enclosure, vessel, place or premises to which the order relates, and in respect of which such expenses were incurred, and also against every person or body who shall by law contract to do that in regard to such building, structure, enclosure, vessel, place or premises, which such order requires. (See charter, § 776-a, as added by ch. 899, L. 1911, and § 1341b.)

§ 27. **Expenses lien on rents.** The expense of executing an order of the department shall also be a lien on all rent and compensation due or to grow due, for the use of any building, structure, enclosure, vessel, place or premises, or part thereof to which such order relates, and in respect of which such expenses were incurred. (See charter, § 776-a, as added by ch. 899, L. 1911, and § 1341-b.)

§ 28. **Suit for expenses; contribution.** One or more of the parties liable for the expense of executing an order of the department may be made party or parties defendant to an action to recover the same; and any of the persons liable for such expenses, but not made parties defendant in the action shall be liable for contribution, according to their legal or equitable obligation.

§ 29. **Records of the department; searches.** The records of the department of buildings shall be public records. Every order or notice of a department shall be indexed against the real property affected thereby. The commissioner, subject to such regulations as he may prescribe, shall cause to be made and certified, searches for all orders and notices of the department on application of persons interested in real property affected thereby, or shall permit the search of the necessary records of the department to be made by such persons.

§ 30. **Violation of orders; penalty.** Any person who shall violate or aid or abet the violation of any order of the department shall be guilty of a misdemeanor, and also shall be liable to a civil penalty of two hundred and fifty dollars. (See § 1341-b, charter.)

§ 31. **Actions and proceedings to be brought in the name of department; penalties.** All actions and proceedings relating to matters within the jurisdiction of the department for the enforcement of the provisions of this chapter, or of the labor law or the tenement house law, or of any ordinance, rule or regulation, shall be brought in the name of the department by the assistant corporation counsel assigned to the department; and all penalties recovered shall be paid to him and accounted for and paid over to the commissioner, with a statement of disbursements. (See § 1344-c, charter.)

§ 32. **Suits to abate nuisances.** The department may maintain in the name of the city an action in the supreme court for the abatement of a nuisance, declared to be such by order of the department. Costs collected in such action shall be paid into the general fund. If, pursuant to this chapter, an order be made by

the commissioner for the abatement of a nuisance and the commissioner applies to the supreme court at a special term for the enforcement thereof, the determination of such application against the commissioner shall not be a bar to an action under this section; but no such action shall be taken before the determination of such summary application to the court.

§ 33. **Injunction, when to be granted against the department.** No preliminary injunction shall be granted against the department of buildings or its officers except by the supreme court, at a special term thereof, after service of at least five days' notice of the motion for such injunction, together with copies of the papers upon which the motion for such injunction is to be made. Whenever the department shall seek any provisional remedy or shall prosecute an appeal it shall not be necessary, before obtaining or prosecuting the same to give an undertaking.

TITLE 3.

BOARD OF STANDARDS AND APPEALS.

Section 34. Board of standards and appeals.
35. Meetings of board.
36. Jurisdiction of board.
37. Adoption of rules and regulations.
38. Rules and regulations continued in force as rules and regulations of the board.
39. Enforcement of rules and regulations.
40. Taking proof and testimony.
41. Inspection by the board.
42. Variations.
43. Appeals to board of standards and appeals.
44. Effect of appeal; hearing; decision.

§ 34. **Board of standards and appeals.** The board of standards and appeals is hereby established. Such board shall consist of the commissioner of buildings, the fire commissioner and three other persons appointed by the mayor. In making such appointments the mayor shall consider nominations, if any, made to him by the following organizations: The New York Chapter of American Institute of Architects, the New York Board of Fire Underwriters, the Mechanics' and Traders' Exchange, the Society of Architectural Iron Manufacturers and the Real Estate Owners

and Builders Association. The terms of the appointive members of the board first appointed shall be one, two and three years, respectively, and thereafter each appointive member shall be appointed for a full term of three years. The commissioner of buildings shall be chairman of the board. The board shall appoint a secretary. The salary of each of the appointive members of the board shall be ——— dollars a year; the salary of the secretary shall be ——— dollars a year. The commissioner of buildings shall detail, from time to time, to the assistance of the board such employees of the building department as may be needed. In aid of its work the board may employ experts for special and occasional services, and employ necessary clerical assistance, when needed.

§ 35. **Meetings of board.** Stated meetings of the board shall be held at such times as the board may determine. The board shall also provide for the calling and holding of special meetings. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, and records of its examinations and other official action.

§ 36. **Jurisdiction of board.** The board shall: 1. Have power to make investigations concerning all matters relating to the enforcement and effect of the provisions of this chapter, and the rules and regulations made by the board thereunder;

2. Make, amend and repeal rules and regulations for carrying into effect the provisions of this chapter, and of laws or ordinances in respect of a subject or matter jurisdiction whereof is conferred upon the department of buildings by this chapter, applying such provisions to specific conditions and prescribing means and methods of practice to effectuate such provisions;

3. Have the powers of the industrial board of the labor department under the labor law to make, amend or repeal rules and regulations in respect of factories, factory buildings and mercantile establishments within the city of New York, exclusive of such industrial board to the extent that jurisdiction thereof is conferred upon the department of buildings.

4. Have power to permit variations from law or ordinance, or rules or regulation of the board, as authorized by this chapter;

5. Hear appeals from a decision or order of the commissioner of buildings, as provided by this chapter.

§ 37. **Adoption of rules and regulations.** At least three affirmative votes shall be necessary to the adoption of any rule or regulation by the board. Before any rule or regulation is adopted, amended or repealed by the board, there shall be a public hearing thereon, notice of the time and place of which shall be published in the City Record at least ten days prior to the hearing. Every rule and regulation and every act of the board shall be promptly published in the City Record. The rules and regulations and amendments and changes thereof shall, unless otherwise prescribed by the board, take effect twenty days after the publication thereof.

§ 38. **Rules and regulations continued in force as rules and regulations of the board.** The rules and regulations of a borough president relating to the construction, alteration or removal of buildings, of the fire department respecting fire prevention, of the tenement house department respecting tenement houses, and of the industrial board of the state labor department in respect of factories, factory buildings and mercantile establishments, and of any other department, board, commission or office, if jurisdiction of the subject matter to which such rules or regulations relate be vested in the department of buildings by this chapter, shall continue in force and be deemed rules and regulations of the board of standards and appeals until amended or repealed. The corporation counsel shall as soon as practicable after this chapter takes effect compile for the use of the board a copy of such rules and regulations as he deems continued in effect by this chapter.

§ 39. **Enforcement of rules and regulations.** The rules and regulations of the board pursuant to the provisions of this chapter shall be enforced in the same manner as the provisions of this chapter.

§ 40. **Taking proof and testimony.** The board shall have power to take proof and testimony in relation to any matter which it has power to investigate, and for such purpose shall have all the powers of a person authorized to take and hear testimony as provided by section eight hundred and forty-three of the civil code, and of a person authorized by law to hear, try and determine a matter in relation to which proof may be taken as provided in section eight hundred and fifty-four of the civil code.

§ 41. **Inspection by the board.** Each member of the board and the secretary shall have the power to enter, inspect and examine buildings as conferred by this chapter on the commissioner of buildings.

§ 42. **Variations.** If, in the opinion of the board, there shall be practical difficulties in carrying out the strict letter of a statute or ordinance, rule or regulation, relating to the construction, alteration or removal of a building, or structure, or to any other subject or matter, jurisdiction whereof is conferred upon the department of buildings, a variation from or modification of its requirements, so that the spirit of the statute, ordinance, rule or regulation shall be observed, public safety secured and substantial justice done, may be permitted as provided by this section. The owner of a building, or structure or of a proposed building or structure, or his agent, may before presenting plans and specifications to the department of buildings or before an order of the department is issued, petition the board for one or more variations or modifications stating the grounds therefor. The board shall fix a day within a reasonable time for a hearing on such petition and upon the hearing the petitioner may appear in person or by agent or attorney. The decision of the board shall be rendered promptly and shall be final. A copy of the petition and decision shall be filed by the secretary of the board in the department of buildings and, if the petition be allowed, wholly or in part, a certificate stating the reason for such allowance. Such decision shall be controlling on the department of buildings. (See § 410, charter.)

§ 43. **Appeals to board of standards and appeals.** If the commissioner of buildings reject or refuse to approve the plans or materials proposed for the construction or alteration of a building or structure, or if it be claimed that a statute or ordinance, rule or regulation does not apply, or an equally good or more desirable form of construction or material can be employed with a satisfactory result, the owner or his agent may appeal from the decision of the commissioner to the board of standards and appeals, if the amount involved exceed the sum of one thousand dollars. An appeal may also be taken to the board from any order of the department of buildings. An appeal from such decision or order shall be taken by filing in the department of buildings and with the secretary of the board of standards and appeals, a notice of appeal specifying the grounds thereof. If the appeal be from a decision of the commissioner of buildings, copies of all papers filed with the commissioner upon application for the building permit shall be filed with the notice of appeal. If the appeal be from an order, a copy of the order shall be filed with the notice

of appeal. Such notice shall be filed, if the appeal be from a decision of the commissioner, within ten days after the entry of such decision upon the records of the building department. If the appeal be from an order, the notice of appeal shall be filed within forty-eight hours after service of a copy of the order appealed from.

(See charter, § 411. The provisions of this section are also intended to supersede the present provisions of the charter authorizing a right of survey to review orders of the fire prevention bureau.)

§ 44. **Effect of appeal; hearing; decision.** An appeal from an order stays the execution and effect of the order until the decision of the appeal, unless the commissioner of buildings certifies to the board of standards and appeals within twenty-four hours after the notice of appeal shall have been filed with the department of buildings, that an emergency exists constituting an imminent peril to life or health and requiring in his opinion the immediate execution of such order, and stating the reasons therefor. The commissioner may at any time after an appeal has been taken file with the board a request for an immediate decision stating in writing his reasons therefor in which case the board shall render its decision within five days thereafter. The board shall fix a time for the hearing of the appeal, and upon the hearing the appellant may appear in person or by his agent or attorney. No member of the board shall pass upon any question in which he is personally interested, and at least three affirmative votes, exclusive of the vote of the commissioner of buildings shall be necessary to reverse or modify the decision or order appealed from. The decision of the board shall be rendered promptly and shall be final.

TITLE 4.

TENEMENT HOUSE PROVISIONS.

Section 45. Sanitary inspection of tenement houses.
46. Tenement house records.
47. Monthly inspection of tenement houses.
48. Reports respecting tenement houses.
49. Requests for institution of actions respecting tenement houses.
50. Tenement house squad.

§ 45. **Sanitary inspection of tenement houses.** In addition to the exclusive jurisdiction conferred by this chapter, the depart-

ment of buildings shall have, concurrently with the department of health, power of sanitary inspection of tenement houses and the premises connected therewith. (See charter, § 1340.)

§ 46. **Tenement house records.** The commissioner of buildings shall keep a complete record of tenement houses by card catalogue including:

1. A diagram of each tenement house showing the shape of the building, its width and depth, also the measurements of the unoccupied area, shafts, courts, yards and other open spaces. Such diagram shall include the plan of the second or typical floor of the building showing the sizes and arrangement of the rooms and all doors, stairs, windows, halls and partitions.

2. A statement of when the building was erected.

3. A statement of the deaths and death rate therein during each year showing whether the deaths were of adults or children and the diseases causing the same if occasioned by tuberculosis, typhoid fever, diphtheria, scarlet fever, smallpox, measles or other contagious or infectious disease.

4. A statement of the cases of sickness from contagious or infectious diseases and whether of children or adults. (See charter, § 1344-i.)

§ 47. **Monthly inspection of tenement houses.** The commissioner shall cause an inspection of every tenement house, in which the average rental of apartments is less than twenty-five dollars per month, to be made at least once in each month. Where the average rental of the apartments therein is twenty-five dollars per month or more, such inspection may be made in the discretion of the commissioner. Such inspection shall include examination of cellars, water closets, privies, plumbing, yards, areas, fire escapes, roofs, shafts, courts, tanks, and all other parts of such tenement house, and of premises connected therewith. (See charter, § 1344-a.)

§ 48. **Reports respecting tenement houses.** All dispensaries and hospitals shall make weekly statements to the department of the cases of sickness treated therein from each tenement house. The statement shall show the location of the tenement house, by street and number, the nature of the sickness, and whether the patient was an adult or child. The police department shall furnish to the department a weekly statement of the number of arrests of persons living in tenement houses which shall show the location of the tenement house, by street and number, the offense

charged, the age and name of the offender, and such other information as the department may require. The commissioner of buildings shall furnish blank forms for such statements. The department may also require other reports relative to persons residing in tenement houses from dispensaries, hospitals, charitable or benevolent societies, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and the managers, principals and officers of such institutions shall promptly make such reports as the commissioner may require. (See charter, §§ 1344-j, 1344-k.)

§ 49. **Requests for institution of actions respecting tenement houses.** The names of owners, lessees and agents and persons having control of tenement houses shall be filed in, and the taxpayer's request for the institution of an action for a lien upon a tenement house shall be presented to the department of buildings instead of the department of health. (See § 1340, charter.)

§ 50. **Tenement house squad.** The police commissioner on a requisition of the commissioner of buildings shall detail to the department of buildings not more than one hundred members of the police force of at least five years' service. The building department shall pay monthly to the police department a sum equal to the pay of the members so detailed, who shall be known as the tenement house squad, and report to the commissioner of buildings. The commissioner of buildings may report to the police department for punishment a member of the squad guilty of breach of order or discipline or of neglect of duty. The commissioner of buildings may reject a member detailed to the squad and thereupon another member shall be detailed in his place. Members of the police force detailed to the tenement house squad at the time this chapter takes effect shall be deemed employees subject to transfer to the department of buildings, as provided by this chapter. (See charter, § 1344-n.)

TITLE 5.

GENERAL PROVISIONS.

Section 51. Record of applications.
52. Permit for building; copies to be filed with the tax department.
53. Height of buildings; restrictions as to ordinances regulating.

Section 54. Complaint book.
55. Municipal explosives commission.
56. Transfer of personnel follows transfer of functions.
57. Transfer of appropriations, property and records.
58. Effect of unrepealed law or ordinance.
59. Building code.
60. Saving clause.

§ 51. **Record of applications.** The commissioner of buildings shall keep a record of all applications presented to him concerning, affecting or relating to the construction, alteration or removal of buildings or other structures, including therein the date of the filing of each application; the name and address of the applicant; the name and address of the owner of the land on which the building or structure is situated; the names and addresses of the architect and builder employed thereon; a designation of the premises by street number or otherwise, sufficient to identify the same; a statement of the nature and proposed use of the structure; and a brief statement of the nature of the application, together with a memorandum of the decision of the commissioner upon such application and the date of such decision. Such records shall be open for inspection to the public at all reasonable times. (See charter, § 413.)

§ 52. **Permit for building; copies to be filed with the tax department.** Whenever a permit shall have been granted for the construction, alteration or removal of a building or structure, the department of buildings shall furnish to the tax department, within ten days, a copy of such permit, designating the lot and block or tax number upon the tax map of the premises. (See charter, § 903.)

§ 53. **Height of buildings; restrictions as to ordinances regulating.** The height of buildings and structures to be erected in the city may be restricted and regulated by ordinance provided that when an ordinance on such subject be introduced the board of aldermen shall provide for public hearings thereon before the board or a committee thereof, and no such ordinance shall be passed except by a majority of all the members of the board and shall not take effect until approved by the board of estimate by a vote of members entitled to cast at least twelve votes. Such an ordinance may be limited in its application to a part of the city. (See charter, § 407.)

§ 54. **Complaint book.** There shall be kept in the department a general complaint book, or several such books, in which may be entered by any person a complaint in reference to a matter within the jurisdiction of the department. Such book shall be open to public examination during the office hours of the department, subject to such regulations as the commissioner may prescribe. The commissioner shall cause the facts in regard to all complaints to be investigated. (See § 1338, charter.)

§ 55. **Municipal explosives commission.** The municipal explosives commission, as constituted when this chapter takes effect, is continued, except that the commissioner of buildings shall be ex officio chairman and a member of the commission, in place of the fire commissioner. The appointive members of the commission shall hold office during the pleasure of the mayor. The regulations of such commission, heretofore continued as a chapter of the code of ordinances of the city, shall continue in full force and effect, subject to amendment or repeal by the board of aldermen, except that the powers and duties of the fire commissioner thereunder shall hereafter be exercised and performed by the commissioner of buildings. (See § 778-c, charter, as added by chapter 889, Laws 1911; also ordinances, § 419-ff.)

§ 56. **Transfer of personnel follows transfer of functions.** Where existing powers or duties of a department, board, body, office, division, bureau, position or employment, or officer or employee of the city, are, by this chapter, conferred or imposed upon the department of buildings, all officers and employees, except heads of departments, superintendents of buildings, deputies, secretaries, and chief building inspectors, within the jurisdiction or control of the department, board, body, division, bureau, office, position or employment, or officer or employee, now exercising such powers or duties shall, without change of salary, be transferred to the department of buildings. Service in the department, board, body, division, office, position or employment from which transferred shall for all purposes be counted as service in the department of buildings.

§ 57. **Transfer of appropriations, property and records.** Where existing powers or duties of a department, board, body, division, bureau, office, officer or employee of the city are, by this chapter, conferred or imposed upon, or transferred to the department of buildings, all funds, property records, books, papers and documents within the jurisdiction or control of the department,

board, body, division, bureau, office, officer or employee, now exercising such powers or duties, shall be immediately transferred and delivered to the department of buildings. There shall likewise be transferred all unexpended appropriations made by the city to enable the department, board, body, division, bureau, office, officer or employee, to exercise the powers and duties so transferred. Records, books, papers and documents of the state labor department relating to such of its powers and duties in the city of New York as by this chapter are transferred to the department of buildings shall also be immediately transferred and delivered to the department of buildings. (See § 1341, charter.)

§ 58. **Effect on unrepealed law or ordinance.** A general law, or special law, or ordinance, not specifically repealed by this chapter shall, notwithstanding the enactment of this chapter, continue in force modified or amended only to the extent of vesting in the department of buildings the jurisdiction and control conferred by this chapter.

§ 59. **Building code.** The building code now in force, subject to amendment and repeal, is hereby continued as a chapter of the code of ordinances until superseded. (See charter, § 407.)

§ 60. **Saving clause.** The provisions of this chapter shall not affect or impair any act done or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been enacted. All actions and proceedings, civil or criminal, commenced under or by virtue of statute, ordinance, rule or regulation creating and conferring powers or imposing duties transferred by this chapter to the department of buildings, and for the enforcement of statutes, ordinances, rules and regulations in relation thereto, and pending immediately prior to the taking effect of this chapter, may be prosecuted and defended to final effect by and in the name of the department of buildings. Any investigations or examinations undertaken, commenced or instituted by a department, commission, board, body or officer of the city, or the state labor department, in relation to a matter or subject jurisdiction whereof is conferred by this chapter on the department of buildings may be conducted or continued to a final determination by the department of buildings as though this chapter had not been enacted. An order of a city department, commission, board, body or officer

in the state labor department in relation to a matter or subject, jurisdiction whereof is conferred by this chapter on the department of buildings is continued in full force and effect, notwithstanding the enactment of this chapter, and may be enforced by the department of buildings; but the procedure for such enforcement shall be pursuant to the provisions of this chapter.

LIST OF QUESTIONS CONCERNING THE FIRE HAZARD IN MERCANTILE ESTABLISHMENTS*

This questionaire is submitted solely for the purpose of obtaining the suggestions of those interested in the problem of the fire hazard in mercantile establishments, so as to guide the Commission in drafting its recommendations on the subject.

The Commission has not yet decided upon any recommendations.

The questions herein set forth will be considered at public hearings the first of which will be held at the Aldermanic Chamber, City Hall, New York City, on Tuesday, April 28th, at 10 A. M. Dates of other public hearings will be announced later. If you desire to appear, please notify Abram I. Elkus, chief counsel to the Commission, 170 Broadway, New York City. In any event the Commission will be glad to receive your views in writing at an early date.

I. Construction

1. Shall all vertical openings between floors be enclosed in fireproof partitions, or partitions of fire-resisting materials, and all openings from these enclosures to the various floors be protected by self-closing, fireproof doors or windows? (*For definition of fireproof partitions and partitions of fire-resisting materials, see the Factory Law. Vertical openings include rotundas, wells, stairways, elevators, package chutes, light shafts, belt openings, pipe and duct shafts, hoistways, etc.*)

2. How many required means of exit shall there be from every floor of a building used as a mercantile establishment? What types of exits shall be accepted as required exits?

3. Shall all required stairways extend continuously from the floors which they serve, to the street; or to a fireproof passageway independent of other means of exit from the building, and opening

* A mercantile establishment is defined in the Labor Law as "any place where goods, wares or merchandise are offered for sale." Shall this definition be changed in any way?

on a road or street; or to an open area affording unobstructed passage to a road or street?

4. How many required exits shall be provided for each floor below the street level, used for purposes of the business, in any mercantile building?

5. Shall all doors in buildings used for mercantile purposes open outward or be double swinging doors?

6. Shall doors from all interior rooms which are used as workrooms or from any interior room, where more than five persons are permitted, open outward or be double swinging doos?

7. Shall revolving doors be allowed at any entrance?

8. Shall the width of the hallways, vestibules and required exit doors leading therefrom to the street, be not less than the aggregate width of all stairways and exits leading to them?

9. What provisions shall be adopted for adequate and sufficient exit facilities in existing and future mercantile establishments based upon area, height of building, number of occupants, etc.?

10. What special provisions shall be made for exits from the main floor of the building?

11. Is it practicable to limit the number of occupants in mercantile establishments in accordance with the exit facilities provided? If so, on what basis should this be done?

12. In what classes of mercantile buildings should an automatic sprinkler system be required?

13. In what classes of mercantile buildings should a fire alarm signal system be required?

II. FUTURE CONSTRUCTION

14. Shall the open floor area between fire walls be limited? If so, on what basis, and should there be a distinction made in this regard between sprinkled and non-sprinkled buildings?

III. MAINTENANCE

15. In what classes of mercantile establishments shall fire drills be required? How shall they be conducted?

16. How shall aisles throughout the building be arranged so as to afford safe passageways to every means of egress?

17. Shall the reduction in width of aisles in the direction of an exit, be prohibited?

18. Shall obstruction of any kind, fixed or movable, be allowed to divide or block the aisles?

19. What provision shall be made for exits from interior rooms in a mercantile building?

20. Shall packing rooms, where inflammable material is used, be enclosed in fireproof partitions?

21. Shall excelsior, paper, clippings or other inflammable material used for packing purposes be baled and stored in a fireproof room, and all loose excelsior in use in packing rooms kept in approved fireproof bins?

22. Shall approved fireproof receptacles be provided throughout the building for the reception of waste material and rubbish?

23. Where gas or kerosene is used for lighting purposes, shall the lights be placed at least eighteen inches distant from inflammable stock and be protected by wire safety-cages? Shall movable brackets be permitted?

24. Shall all kitchens or bakeries located in mercantile establishments be enclosed in fireproof partitions and separated from the rest of the building by such partitions?

25. Shall smoking be prohibited in every mercantile establishment where more than ten persons are employed, except in fireproof enclosed rooms set aside for that purpose?

26. Shall all exits be plainly marked by means of a red-lighted sign? Shall there be any special form of signs at horizontal exits.

27. Shall there be red-lighted index signs showing the most direct path to the various exits?

28. Where there are different floor levels in any building or group of buildings used as a mercantile establishment, shall the connection between floor levels be by means of gradients having a non-slipping surface?

IV. GENERAL

29. What conditions constitute the most serious fire hazards in department stores?

30. What recommendations would you make to minimize the fire hazard in department stores other than those suggested by the foregoing questions?

7. STUDY OF HOTEL LAUNDRIES

By SALLY M. FRANKENSTEIN

The Commission's study of hotel laundries made during the month of June, 1914, was confined almost exclusively to the welfare of women, since they constitute about 75 per cent. of the working force.

Because of the short time available it was necessary to confine our observations to a few general points.

(1) Conditions of work.

(2) Length of hours.

(3) Wages.

The investigator secured the information from managers of hotels, the superintendent or manager of the laundry, and in six instances from conversation with employees; visiting in all twenty-eight (28) hotels. Of these nine (9) had no laundries and one (1) conducted a regular public laundry, thus coming under the jurisdiction of the Department of Labor. The study, therefore, included eighteen (18) hotel laundries, in which four hundred and seventy-seven (477) women were found employed.

Situation.— Thirteen (13) of the laundries were situated in cellars; three (3) in basements and eight (8) above the street floor (on the 9th, 10th, 15th, 19th or 26th floors).

Lighting.— Those in cellars receive no natural light or sunlight and in about 60 per cent. of these it would have been difficult to read a newspaper without straining the eyes.

Ventilation.— Ventilation in all the cellar laundries was by indirect means and in two laundries the ventilating system was noticeably poor and the rooms were hot and steamy. This was caused in one case by unhooded or insufficiently hooded mangles, which allowed the steam and heat to escape into the room. In the other the ventilating system was poor because of inadequate exhaust fans.

Exits.— Apparently most of the laundries were planned and erected with little or no thought of providing adequate fire protection to the people who work in them daily. Situated, as many of them are, in the cellar, the proper means of exit in case of fire or panic were lacking in a number of instances. The exits in a

large majority of hotel laundries situated in the cellar are through winding passages remote from the laundries, and in no cases were the exits indicated by signs or other notices.

In one hotel the manager, who was showing the investigator through the laundry, could not find the direct exit to the street and went into several rooms and out again in his search for it. An employee was asked where it was and he did not know. Finally it was found enclosed in a small room with the door closed and no exit sign on the door. Another means of exit was by the street elevator, with no sides, so small that but two or three people could safely stand on it. This hotel had its cellar passageways filled with rubbish.

Hours.— The women in five (5) out of the eighteen (18) hotels were working over fifty-four (54) hours a week regularly; in four (4) of these they worked sixty (60) hours and in one (1) fifty-nine (59) hours. Six (6) admitted having occasional overtime work and eight (8) laundries were running regularly on Sunday. The employees who worked on Sunday had no day of rest during the week.

Machinery.— Ten (10) hotel laundries had some machine or part of some machine unguarded. In four (4) of them the extractors were without covers, a particularly dangerous condition and one liable to result in injury to the worker.

Wages.— The salaries range from sixteen dollars ($16) per month without board or room to forty-five dollars ($45) per month with board and room. Four (4)hotels give rooms and board to some of the employees; six (6) hotels give board alone; two (2) give lunches only, and four (4) give neither board nor room.

In one of the largest and best of the New York City hotels, where board and room were given, seven women were found living together in one small room.

It is evident that the managers of hotel laundries face an extraordinary difficult task in planning for the working hours of their employees. Catering for the most part to their transient guests, they must be prepared to do a large order in a few hours. In many of the hotel laundries, employees are subject to call, at night or at other times when off duty, if a rush order comes in.

The hotel owners and managers have always felt that their laundries should be exempt from the Labor Law because they regard their hotels as private and no more to be regulated than boarding houses.

The distinction between these is clearly brought out in a brief submitted in the case of the People of the State of Illinois versus Eldering, which states that the distinction between a hotel and a boarding house is that into the former all travellers can go, but a keeper of a boarding house has a right to select her own guests. This distinction exists in the common law and has been frequently recognized by legislation.

Recommendations.— Hotel laundries, therefore, should come under the Labor Law because

(1) They are quasi-public places.

Bowlin *v.* Lyon, 67 Ia. 536 (538).

"When an innkeeper obtains his license, he takes upon himself a public employment, and he is bound to serve the public. The employment is for the benefit of the public and not for his own private gain. He is obliged to keep his house open Sundays as well as other days. He cannot refuse to receive and furnish with food and liquor (unless liquor is excluded by his license) all persons who are willing to pay a price adequate to the sort of accommodation provided; and who come in a situation in which they are fit to be received and demean themselves with proper decorum. If he refuse, without reasonable excuse, or if he furnish unwholesome food or liquors an action lies against him."

(2) Existing conditions justify some regulation.

It has been brought out in the study that employees of laundries are subject to long hours of labor, including overtime, fire hazards and dangerous machinery.

(3) All other laundries are under the supervision of the Department of Labor.

Employees in hotel laundries are required to answer to the same spur and pressure of the increasing demand of the public, whom these employees are required to serve, as in other laundries.

Hotel	Situation of laundry	Number of women employed	Weekly hours	Overtime	Sunday work	Wages	Ventilation	Fire exits	Machines guarded	Machines unguarded
1	Basement.....	16	54	No.....	No.....	$16–$24 month, board and room.	Good..	No exit signs on doors and in most cases the stairways are remote from basement and sub-basement laundries.	Yes....	.....
2	Sub-basement...	35	54	Occasional..	.....	$7–$12 week; pay for overtime.	Poor...		Yes....	.....
3	Sub-basement and 26th floor.	20 15	60 54	Occasional..	.....	$16–$45 month and meals; 20c an hour for overtime.	Good..		Yes....	One or two belts.
4	Sub-basement...	84	54	No.....	No.....	$7–$13 week.....	Good..		Yes....	.....
5	Sub-basement and 15th floor.	40	*54	Occasional..	No.....	$16–$45 month; room and board; no pay for overtime.	Good..		Yes....	One or two gears.
6	Sub-basement and 19th floor.	25 20	60	No.....	No.....	.....	Good..		Yes....	A few belts.
7	Sub-basement...	9	54	Very seldom	Yes; 9–3:30.....	$20–$25 month and board	Poor...		Yes....	1 extractor.
8	9th floor.....	35	59	Occasional..	No.....	.....	Good..		Yes....	Belts on extractors.
9	Sub-basement and 10th floor.	10 13	54	No.....	Yes; 8:30–2.....	$26–$35 and board a month; $16–$18 a month and room and board.	Good..		Yes....	Belt on 1 extractor.
10	Basement.....	9	49	No.....	Yes; 8–4, with every other Sunday off.	$16–$45 month.....	Fair...		.....	2 extractors unguarded.
11	.....	.....	50	.....	Yes; 8–4.....	.....	.....		.....	.....
12	Sub-basement (high ceiling).	9	54	No.....	Yes: 8–1.....	$9–$12 week.....	Good..		Yes....	Belts on 2 machines.
13	Sub-basement	26	†60	No.....	Yes; 8–2:30 for some workers only.	$5–$11 week and board..	Good..		Yes....	.....
14	Sub-basement...	18	54	No.....	No.....	$6–$10 week and lunch...	Good..		Yes....	.....
15	Sub-basement and upstairs..	9 8	60	No.....	Yes; 4 hours....	$22–$40 month and board	Fair...	Very far from laundry, through winding passage.	.....	Extractors and gears on mangles.
16	Sub-basement and 14th floor.	32	54	Very seldom	No.....	$27–$55 month and lunches	Good..	Through engine room and kitchen and street elevator.	Yes....	Extractors.
17	Sub-basement and upstairs.	12 18	54	No.....	No.....	$28–$35 month and board	Good..	Stairs very near laundry lead out.	Yes....	.....
18	Basement.....	14	52	No.....	Yes; 8–12 for a few workers.	$22–$30 month, rooms and board.	Good..	Stairs near laundry	Yes....	.....

Number of hotels visited..... 28
Number of hotels without laundries..... 9
Number of hotels with laundries..... 18
Number of hotels doing outside work under Labor Law..... 1
Number of hotels working over 54 hours a week regularly..... 5

Number of hotels working Sundays..... 8
Number of hotels doing *occasional* overtime..... 6
Number of hotels having poor ventilation..... 2
Number of hotels having some machine or part of some machine unguarded. 10

* Work Saturday nig.t. † Half hour lunch.

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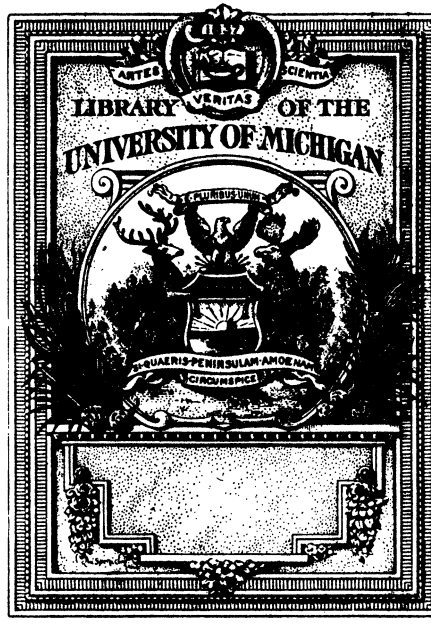
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